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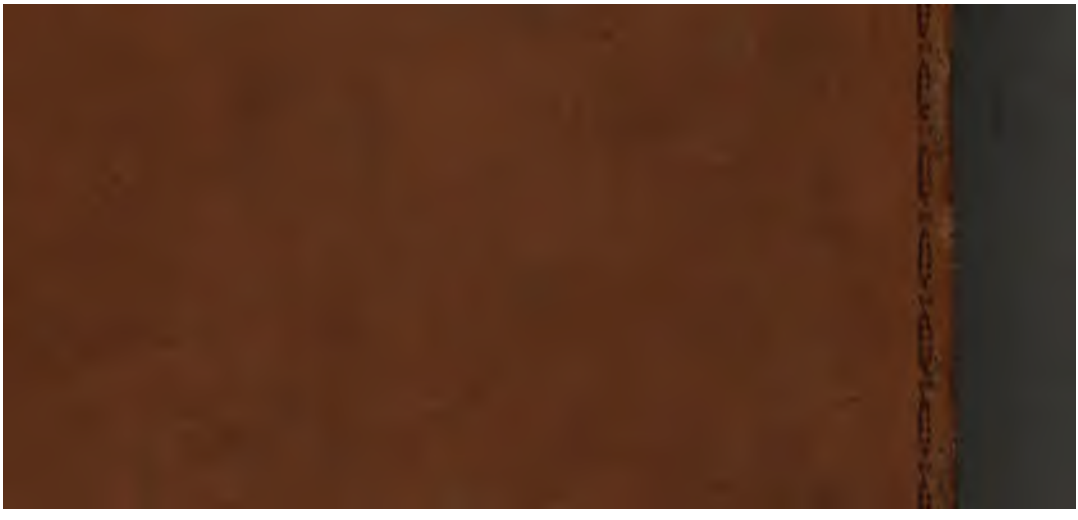

THE

REPORTS OF COMMITTEES

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FIFTY-THIRD CONGRESS.

1893.

IN TWO VOLUMES.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1893.

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INDEX TO REPORTS OF HOUSE COMMITTEES.

CONTENTS OF THE VOLUMES.

Vol. 1..Nos. 1 to 170, inclusive, except Nos. 49, 88, 145, and 152.
Vol. 2..Nos. 49, 88, 145, and 152. first session Fifty-third Congress; Nos. 206, 210, 349, 392, 409, 637, 822, 970, 971, and 972, second session Fifty-third Congress, and Nos. 1584, 1652, 1736, 1759, 1839, 1851, 1908, 1909, 1910, 1954, 1973, 1974, 1975, 1976, and 2000, third session Fifty-third Congress.

PART 1.

SUBJECTS OF REPORTS.

Subject.	No.	Vol.
A.		
Alford, Benjamin	12	1
American register for foreign-built ships	148	1
Amick, Henry	136	1
Appropriations:		
Urgent deficiencies	123	1
Arizona, relative to certain swamp lands for	94	1
admission of, as State	168	1
Army, for information relative to reports of action of, in Cherokee Strip	47	1
relative increasing detail of officers to educational institutions	87	1
B.		
Bankruptcy, uniform system of	67	1
Barnes, George W. (heirs of)	157	1
Baynard, Joseph S	53	1
Belknap, Charles E. (on certificate of election)	3	1
Bennington and *Concord*, to remit penalties on	27	1
	76	1
Billings, J. M	13	1
Bills and joint resolutions, to change form of engrossing and enrolling of	145	2
Birmingham, Sheffield and Tennessee Railroad Company, right of way to	161	1
Boilers, relative to test of	25	1
Bradford, John S	158	1
Bridges—to allow constructions across:		
Caddo Lake	128	1
Calcasien River	130	1
Hudson River, at New York	15	1
Little River, in Arkansas	153	1
Sabine River (Texarkana and Fort Scott Railroad)	130	1
Sabine River (Gulf, Beaumont and Kansas City Railroad)	165	1
Sulphur River	129	1
Butler Flat. (*See* New Bedford.)		
C.		
Caddo Lake, bridge across by Texarkana and Fort Smith Railroad	128	1
Caine, Catherine	57	1
Cairo, Ill	75	1

Subject.	No.	Vol.
Calcasieu River, bridge across	130	1
Capers, Charles B. (heir of)	53	1
Capers, Edward M	53	1
Capers, Francis T	53	1
Chaplin, Benjamin	53	1
Cherokees. (*See* Indians.)		
Cherokee Outlet, qualification of voters in	91	1
Cherokee Strip, for information relative to action of troops in	47	1
Chinese immigration, amendment to act to exclude	70	1
Choctaw Coal and Railway Company, to extend time for completion	166	1
Church of Jesus Christ of Latter Day Saints, relative to certain moneys of	50	1
Claims, to extend time for filing of, for loss of horses and other property	43	1
Claussen, Frederick W	53	1
Clerks. (*See* Courts of the United States; *also* Committees.)		
Committees:		
Appointment and number of	1	1
Clerks for	19	1
Additional clerk for Committee on Naval Affairs	21	1
Assistant clerk for Committee on Claims	20	1
To print hearings before Committee on Ways and Means	102	1
Clerk for Committee on Education	119	1
Concord and *Bennington*, to remit penalties on	27	1
	76	1
Congressional Record, for additional copies to members	146	
Connerat, Clarence S. and William H	53	
Consular service, resolution for information relating to appointments in	42	1
Contested elections, Belknap *vs.* Richardson (certificate of election)	3	1
Copen, Addison M	115	1
Courts of United States:		
Fees:		
Transfer of, by witnesses and jurors	110	1
Return of, by district attorneys, marshals, and clerks	111	1
Idaho and Wyoming, relative to, in	92	1
Indian Territory:		
Special judge for United States court in	105	1
Fees for clerk of, in the	138	1
Judges, disqualification of, etc	24	1
Juries, charges to	28	1
Land cases, resolution for information as to, pending in	61	1
Michigan, to subdivide eastern judicial district of	118	1
Mississippi, changes in judicial district	163	1
Naturalization, return of fees for	111	1
Nebraska, time for holding in	104	1
Oklahoma, additional justice for supreme court	150	1
South Dakota, time for holding in	109	1
Culver, Catherine P. (heirs of)	79	1
Cumberland Female College	56	1
Curtis, Henry W	84	1
D.		
Dealy, Martha A. (heirs of	143	1
Debtors	151	1
Departments. (*See* Executive Departments.)		
Derelicts. (*See* Vessels.)		
Digest of Rules, to print	22	1
District attorneys. (*See* court of United States.)		
District of Columbia:		
Health office, additional clerks for	9	1
	48	1
Massachusetts avenue, to extend	45	1
North Capitol street, to extend	117	1
Sale of intoxicating liquors in	167	1
To amend Revised Statutes relating to certain deputy clerks	140	1
Duncan, John	53	1

Subject.	No.	Vol.
E.		
Educational institutions, relative to detail of officers of Army to	87	1
Election laws, to repeal Federal:		
Oates report	14	1
Tucker report	18	1
Engineers. (*See* Steam vessels.)		
Executive departments, report of joint commission to inquire into:		
Laws relating to	49	2
Personnel of, salaries, etc	88	2
Contracts for supplies	152	2
F.		
Federal election laws, to repeal:		
Oates report	14	1
Tucker report	18	1
Flanigan, Mary Matilda	36	1
Fletcher, Nathan (heirs of)	39	1
Florida, claim of	4	1
Eastern judicial district of	170	1
Forest reservation, to protect	78	1
Fort Cummings military reservation, for reservation of certain lands on	164	1
Fripp, Evalina Ann E	53	1
Fuller, Robert W. (heirs of)	53	1
G.		
Gallagher, Edward John	86	1
Giseburt, Ambrose	124	1
Gooch, C. P	71	1
Great Lakes, revenue cutter for	127	1
Gulf, Beaumont and Kansas City Railway Company, to allow to bridge Neches and Sabine rivers	165	1
H.		
Hall, Charles A	144	1
Haxthausen, Joseph	100	1
Haynes, James J	66	1
Health office. (*See* District of Columbia.)		
Herron, William R	53	1
Heyward, Louisa G., and others	52	1
House of Representatives, resolution relative to distribution of books and documents to members	5	1
Hot Springs Reservation, right of way for railroad across	142	1
Hudson River, bridge across at New York	15	1
Hunt, Anna	77	1
Hurley, Edward	35	1
Huthmacher, George Jacob	53	.....
I.		
Idaho, relative to United States courts in	92	1
Import duties:		
Relative per cent of refund on goods remaining in bond on October 6, 1890	29	1
Remission of, on certain naval ordnance	30	1
Relative to exhibits at the Columbian Exposition	108	1
Indians, Cherokees, to allow to purchase certain lots of land claimed by	116	1
Indian wars, to amend laws to allow restoration of pension for, dropped	26	1
Indian reservation, for relief of parties on Mille Lac Reservation	149	1
Indian Territory:		
Special judge for	105	1
Fees for clerk of United States court for	138	1
Inspectors. (*See* Steam vessels.)		
Internal-revenue service, relative to repeal of sections 1790 and 2693 relating to	31	1

Subject.	No.	Vol.
Interstate commerce:		
To amend law relative to filing tariffs	68	1
To amend acts relative to admission of certain documents as evidence	81	1
J.		
Jackson, Lennes A	63	1
Johnson, Hiram, and others	38	1
Johnson, William	58	1
Judge, Henry	114	1
Jurors. (*See* Courts of United States.)		
K.		
Kansas River, for dam across	160	1
Keady, William P	80	1
Kienner, Christian	36	1
Kittles, Richard N. (heirs of)	53	1
L.		
Lamar, Robert G	53	1
Land offices. (*See* Public lands.)		
Latter Day Saints, return of certain money to Church of Jesus Christ of	50	1
Life-Saving Service, transfer of station from Morris to Sullivan Island	98	1
Lights, for light and fog-signal near Butler Flat, Mass	69	1
Lincoln, Nebr., for paving streets around public building	46	1
Little River, bridge over, in Arkansas	153	1
Louisville, Ky., sale of old public building	17	1
Lynch, John A	112	1
M.		
McAlpin, George	52	1
McCovert, John	85	1
McDowell, James D. (administrator)	53	1
McGarrahan, William	51	1
McKee, Henry (heirs of)	53	1
McMinnville (Tenn.), Cumberland Female College	56	1
Marshals. (*See* Courts of United States.)		
Massachusetts avenue. (*See* District of Columbia.)		
Merchandise, refund of duties on, remaining in bonded warehouses, October 6, 1890	29	1
Merriam, J. E	62	1
Mexican war. (*See* War with Mexico.)		
Michigan, to subdivide eastern district of	118	1
Mille Lac Indian Reservation, for relief of certain parties on	149	1
Mines and Mining, to suspend law relating to amount of annual loan on mining claim	107	1
Mississippi, changes in Federal judicial districts in	163	1
Moore, Elizabeth A., *et al*	103	1
Morris Island, transfer of life-saving station from, to Sullivan Island	98	1
Morrow, W. B	54	1
Mortgage debtors	151	1
N.		
National banks, for control of	23	1
Naturalization laws	139	1
Navy, remission of duties on ordnance for	30	1
resolution for information relative to premiums paid for vessels for	96	1
resolution to investigate personnel of	122	1
Nebraska, time for holding United States courts in	104	1
Neches River, to allow Gulf, Beaumont and Kansas City Railway Company to bridge	165	1
Nelson, Samuel A. (heirs of)	53	1
New Bedford, Mass., for light, etc., near Butler Flat	69	1
New England, revenue cutter for coast of	106	1
New Mexico, for admission of, as State	155	1

Subject.	No.	Vol.
Newton, Isaac (heirs of)	53	1
New York, bridge across Hudson River, at	15	1
New York World's Fair, relative to admission of exhibits for	156	1
Norman, Fannie M	95	1
North Capitol street, to extend	117	1
O.		
Offenses, punishment of certain minor, committed on public reservations	141	1
Oklahoma, relative to right of settler to commute homestead in	73	1
additional justice for supreme court of	150	1
P.		
Pelham, Louis	55	1
Pensions:		
Amending laws relating to disloyalty charge, etc	26	1
Resolution for information relative to allowance of claims for	60	1
Resolution for information from	101	1
Pennsylvania, war claims of	37	1
Plant, George H	90	1
Pneumatic Dynamite Gun Company	8	1
Pope, Daniel T	53	1
Pope, F. P. (heirs of)	53	1
Pope, John W. R	53	1
Pope, Joseph James, sr. (heirs of)	53	1
Pope, John J. T. (heirs of)	53	1
Postmasters' bonds, to authorize Fourth Assistant Postmaster-General to approve	33	1
Post-Office Department, to allow Fourth Assistant Postmaster-General to approve of bonds of postmasters	34	1
Potomac Steamboat Company	89	1
Premiums. (*See* Navy.)		
President, to amend act relative to vacancy in office of	32	1
Printing bill	7	1
Public buildings:		
Louisville, Ky. (sale of old)	17	1
Lincoln, Nebr. (for paving streets around)	46	1
Public documents:		
Resolution relative to distribution of	5	1
On printing bill	7	1
Hearings before Ways and Means Committee	102	1
Bill to change form of engrossing and enrolling	145	2
For additional copies of Congressional Record	146	1
Public Lands:		
Relative to disqualification of registers and receivers	16	1
Resolution relative to information as to cases pending in United States courts	61	1
Relative to rights of settlers to commute homesteads in Oklahoma	73	1
To protect forest reservations on	78	1
To extend power to certain officers to take proofs, etc., in timber land cases	82	1
Relative to amendment to timber-culture laws	93	1
Relative to grant of certain swamp lands to Arizona	94	1
To allow Cherokee claimants to purchase certain lots of	116	1
Mille Lac Reservation, for relief of certain parties on	149	1
To extend time to settlers to purchase certain	154	1
Granting right of way to Birmingham, Sheffield and Tennessee R. R. Company	161	1
Fort Cummings Reservation, for the reservation of certain lands on	164	1
Cost entry of offered lands	169	1
Public printing. (*See* Public documents.)		
Public reservations, punishment of offenses committed on	141	1
Public works, protection to furnishers of materials and labor on	97	1

Subject.	No.	Vol.
Q.		
Quinn, William H	64	1
R.		
Railroads, relative to stations and depots of, in the Territories	74	1
Raleigh, N. C	11	1
Ramsey, F. Y	6	1
Reed, Thomas B	41	1
Registers and receivers. (*See* Public lands.)		
Reservations, punishment of offenses on	141	1
Revenue-Cutter Service:		
To construct cutter for New England coast	106	1
To provide cutter for harbor of San Francisco	126	1
To provide cutter for Great Lakes	127	1
Richardson, George F. (on certificate of election)	3	1
Rollins, W. W	65	1
Rules, report on	2	1
to print Digest of, etc	22	1
S.		
Sabine River:		
Bridge across, by Texarkana and Fort Scott Railroad	130	1
Bridge across, by Gulf, Beaumont and Kansas City Railroad	165	1
San Francisco, to provide revenue cutter for harbor	126	1
Scott, John A. P. (heirs of)	53	1
Seabrooke, James B	53	1
Ships. (*See* vessels.)		
Slawson, C. L	53	1
Slawson, Stockton E	53	1
Smith, Robert J. (heirs of)	53	1
South Dakota, time for holding United States courts in	109	1
State banks, resolution for information relative to failures, etc., of	147	1
Steamboats, tests of boilers	25	1
Steam vessels, for additional engineers for	120	1
equalization of salaries of inspectors of	159	1
Sullivan Island, relative to transfer of life-saving station from Morris Island to	98	1
Sulphur River, bridge across	129	1
Swamp lands. (*See* Public lands.)		
T.		
Tapp, W. J., & Co	99	1
Territories, relative to stations and depots on certain railroads in the	74	1
Texarkana and Fort Smith Railway Company, to allow bridge:		
Caddo Lake	128	1
Sulphur River	129	1
Calcasieu and Sabine rivers	130	1
Little River in Arkansas	153	1
Thompson, Arden	132	1
Thunot, Mrs. Victor	10	1
Timber-culture laws. (*See* Public lands.)		
Timber lands. (*See* Public lands.)		
Tomlin, Francis M	44	1
Tompkins, Sally H	133	1
Travilla, Robert	59	1
Trump, Russell G	137	1
U.		
Urgent deficiency appropriations	123	1
Utah, for admission as State	162	1
V.		
Venning, Mortimer W	51	1
Vessels (*see also* steam vessels):		
To amend laws to aliens as officers on	121	1
Removal of derelict	125	1
American register for foreign-built	148	1

Subject.	No.	Vol.
W.		
Walker, Charles	134	1
Walker, Hiram	131	1
War with Mexico, to allow restoration of veterans of, dropped for disloyalty	26	1
Wells, James (heirs of)	53	1
Werner, John F	53	1
White, Octavus A. (trustee)	53	1
White, Thomas G. (executor)	53	1
White, William P	113	1
Williams, George W., & Co	53	1
Williams, Louis L	72	1
Wilson, William	53	1
Witnesses. (*See* Courts of United States.)		
Wood, Albert	83	1
Woodbridge, William E	40	1
World's Columbian Exposition, relative to duties on exhibits at	108	1
World's Fair Prize Winners' Exposition	156	1
Wyoming, relative to United States courts in	92	1
Y.		
Yeager, H. A	135	1

INDEX TO HOUSE REPORTS.

PART 2.

SUBJECTS OF REPORTS AND THE COMMITTEE WHICH MADE THEM.

Subject.	No.	Vol.
COMMITTEE ON ACCOUNTS—		
Committees, clerks to	19	1
Assistant clerk to Committee on Claims	20	1
Clerk for Committee on Education	119	1
Additional clerk to Committee on Naval Affairs	21	1
COMMITTEE ON APPROPRIATIONS—		
Clerks for health department, District of Columbia	48	1
Urgent deficiency bill	123	1
COMMITTEE ON BANKING AND CURRENCY—		
Safety of national banks	23	1
State banks, resolution for information	147	1
COMMITTEE ON CLAIMS—		
Alford, Benjamin	12	1
Billings, J. M	13	1
Cairo, Ill	75	1
Concord and Bennington	76	1
Culver, Catherine P. (heirs of)	79	1
Flanigan, Mary Matilda	35	1
Florida	4	1
Gooch, C. P	71	1
Haxthausen, Joseph	100	1
Haynes, James J	66	1
Hurley, Edward	34	1
Import duties, refund of, on goods in bonded warehouses October 6, 1890	29	1
Jackson, Lennes A	63	1
Kierner, Christian	36	1
Lincoln, Nebr., for paving around public building	46	1
Merriam, J. E	62	1
Moore, Elizabeth A	103	1
Plant, George H	90	1
Potomac Steamboat Company	89	1
Quinn, William H	64	1
Raleigh, N. C	11	1
Ramsey, F. Y	6	1
Rollins, W. W	65	1
Tapp, W. J., & Co	99	1
Thunot, Mrs. Victor	10	1
Williams, Louis L	72	1
Wood, Albert	83	1
COMMITTEE ON THE DISTRICT OF COLUMBIA—		
Health department, clerks for	9	1
Liquors, amending law relative to sale of	167	1
Massachusetts avenue, extension of	45	4
North Capitol street, to extend	117	1

Subject.	No.	Vol.
COMMITTEE ON ELECTIONS—		
Belknap v. Richardson (certificate)	3	1
COMMITTEE ON ELECTION OF PRESIDENT, VICE-PRESIDENT, AND REPRESENTATIVES IN CONGRESS—		
Repeal of Federal election laws	18	1
COMMITTEE ON FOREIGN AFFAIRS—		
Chinese immigration	70	1
Barnes, George W., heirs of	157	1
Bradford, John S., sureties of	158	1
Resolution relative to consular appointments	42	1
COMMITTEE ON INDIAN AFFAIRS—		
Choctaw Coal and Railway Company	166	1
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE—		
Alien officers on certain vessels	121	1
Bridges, to allow erection across—		
Caddo Lake	128	1
Calcasieu and Saline rivers	130	1
Hudson River at New York City	15	1
Little River, Arkansas	153	1
Neches River	165	1
Sabine River	165 130	1 1
Sulphur River, Arkansas or Texas	129	1
Derelicts	125	1
Evidence, amending act to regulate commerce relating to	81	1
Life-saving service, transfer of station from Morris to Sullivan Island	98	1
New Bedford, Mass. (lights, etc.)	69	1
Revenue cutter for Great Lakes	127	1
Revenue cutter for New England coast	106	1
Revenue cutter for San Francisco Harbor	126	1
Steam vessels, engineers on	120	1
equalization of salaries of inspectors of	159	1
Tariffs, amendment to act to regulate commerce relative to posting change of	68	1
COMMITTEE ON INVALID PENSIONS—		
Resolution for information relative to allowance of pension claims	60	1
Pension Bureau, resolution for information relative to administration of, June 27, 1890, by	101	1
Giseburt, Ambrose	124	1
COMMITTEE ON THE JUDICIARY—		
Bankruptcy	67	1
Boilers and plates, inspection of	25	1
Church of Jesus Christ of Latter-Day Saints	50	1
Cherokee Outlet, voters in	91	1
District of Columbia, amending Revised Statutes relating to deputy-clerks in	140	1
Federal election law	14	1
Fees, certificates for fees of jurors and witnesses	110	1
return of, by court officers	111	1
Florida, to create eastern judicial district of	170	1
Idaho and Wyoming, United States courts in	92	1
Indian Territory, special judges for Federal court in	105	1
fees of clerk of United States court in	138	1
Judges, etc., disqualification of	24	1
Juries, charges to	28	1
Michigan, to divide eastern district of	118	1
Mississippi, changes in southern judicial district of	163	1
Mortgage debtors	151	1
Naturalization	139	1
Nebraska, time for holding United States courts in	104	1
Revised Statutes, repeal of sections 1790 and 2693 of	31	1
Oklahoma, additional associate justice for supreme court of	150	1
Pensions, amending Revised Statutes relative to certain	26	1
President and Vice-President, vacancy in office of	32	1
Public reservations, offenses on	141	1

Subject.	No.	Vol.
COMMITTEE ON THE JUDICIARY—Continued.		
Public works, furnishers of material and labor on	97	1
South Dakota, time for holding courts in	109	1
COMMITTEE ON MERCHANT MARINE AND FISHERIES—		
American register for foreign-built ships	148	1
COMMITTEE ON MILITARY AFFAIRS—		
Action of troops in Cherokee Strip	47	1
Army officers detailed to educational institutions	87	1
Curtis, Henry W	84	1
Gallagher, Edward John	86	1
McCourt, John	85	1
COMMITTEE ON MINES AND MINING—		
Amendment to Revised Statutes relative to labor required on mining claims	107	1
COMMITTEE ON NAVAL AFFAIRS—		
Concord and *Bennington*	27	1
Personnel of the Navy	122	1
Pneumatic Dynamatic Gun Company	8	1
Premiums paid on naval vessels, etc	96	1
COMMITTEE ON PENSIONS—		
Copen, Addison M	115	1
Norman, Fannie M	95	1
COMMITTEE ON POST-OFFICES AND POST-ROADS—		
Approval of postmasters' bonds	33	1
COMMITTEE ON PRIVATE LAND CLAIMS—		
McGarrahan, William	51	1
COMMITTEE ON PRINTING—		
Distribution of books and documents	5	1
Congressional Record, for additional copies for	146	1
Digest and Manual of Rules	22	1
Printing bill	7	1
Tariff hearings	102	1
COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS—		
Louisville, Ky., sale of old custom-house at	17	1
COMMITTEE ON PUBLIC LANDS—		
Arizona, swamp-land grants to	94	1
Birmingham, Sheffield and Tennessee Railroad Company, right of way to	161	1
Cash entries of offered lands	169	1
Cherokees, to allow certain allottees to purchase certain tracts of land	116	1
Dealey, Martha A., heirs of	143	1
Extension of time to certain purchasers	154	1
Forest reservations, to protect	78	1
Fort Cummings Reservation, to reserve certain lands on	164	1
Hall, Charles A	144	1
Hot Springs, right of way across	142	1
Keady, William P	80	1
Mille lac Reservation, for protection of settlers on	149	1
Oklahoma, right of settlers in	73	1
Registers and receivers, disqualification of	16	1
Timber-culture laws	93	1
Timber lands, purchasers of certain	82	1
Tomlin, Francis M	44	1
United States courts, cases pending in	61	1
COMMITTEE ON RIVERS AND HARBORS—		
Dam across Kansas River	160	1
COMMITTEE ON RULES—		
Committees of the House	1	1
Rules of the House	2	1
COMMITTEE ON TERRITORIES—		
Arizona, admission of, as State	168	1
New Mexico, admission of, as State	155	1
Railroad stations and depots in	74	1
Utah, for admission of, as State	162	1

Subject.	No.	Vol.
COMMITTEE ON WAR CLAIMS—		
Amick, Henry	136	1
Caine, Catherine	57	1
Cumberland Female College	56	1
Fletcher, Nathan (heirs of)	39	1
Horses, etc., lost in service	43	1
Hunt, Anna	77	1
Johnson, Hiram, and others	38	1
Johnson, William	58	1
Judge, Henry	114	1
Lynch, John A	112	1
McAlpin, George	52	1
Morrow, W. B	54	1
Pelham, Louis	55	1
Pennsylvania war claims	37	1
Reed, Thomas B	41	1
Smith, Robert J., and others	53	1
Thompson, Arden	132	1
Tompkins, Sally H	133	1
Travila, Robert	59	1
Trump, Russell G	137	1
Walker, Charles	134	1
Walker, Hiram	131	1
White, William P	113	1
Woodbridge, William E	40	1
Yeager, H. A	135	1
COMMITTEE ON WAYS AND MEANS—		
Duties on certain naval ordnance	30	1
Duties on articles at World's Columbian Exposition	108	1
New York World's Fair	156	1
JOINT COMMISSION TO INQUIRE INTO THE STATUS OF LAWS ORGANIZING THE EXECUTIVE DEPARTMENTS, ETC.		
Reference to laws of organization, etc., of Executive Departments	49	2
Personnel, etc., of Executive Departments	88	2
Enrolling and engrossing of bills	145	2
Contracts for fuel and supplies	152	2

INDEX TO HOUSE REPORTS.

PART 3.

SUBJECT OF REPORTS AND BY WHOM MADE.

Subject.	No.	Vol.
ALLEN, JOHN M.		
From Committee on Indian Affairs.		
Choctaw Coal and Railway Company	166	1
BAILEY, JOSEPH W.		
From Committee on the Judiciary.		
Bankrupt law (minority, part 2)	67	1
Fees of clerk of United States court, Indian Territory	138	1
Church of Jesus Christ of Latter Day Saints	50	1
BELTZHOOVER, FRANK E.		
From Committee on War Claims.		
Pennsylvania War Claims	37	1
BERRY, ALBERT S.		
From Committee on Public Buildings and Grounds.		
Sale of old public building at Louisville, Ky	17	1
BLANCHARD, NEWTON C.		
From Committee on Rivers and Harbors.		
Dam across the Kansas River	160	1
BOATNER, CHARLES J.		
From Committee on the Judiciary.		
Charges to juries	28	1
Florida, to create eastern judicial district of	170	1
BOWERS, WILLIAM W.		
From Commiteee on Military Affairs.		
Curtis, Henry W	84	1
Gallagher, Edward John	86	1
McCourt, John	85	1
BRAWLEY, WILLIAM H.		
From Committee on Interstate and Foreign Commerce.		
Transfer of life-saving station from Morris to Sullivan Island	98	1
BRODERICK, CASE.		
From Committee on the Judiciary.		
United States courts for Idaho and Wyoming	92	1
Federal courts in Nebraska	104	1
Additional supreme justices, Oklahoma	150	1
BUNN, BENJAMIN H.		
From Committee on Claims.		
Alford, Benjamin	12	1
Cairo, Ill	75	1
Concord and *Bennington*	76	1
Haynes, James J	66	1
Jackson, Lennes A	63	1
Merriam, J. E	62	1
Quinn, William H	64	1
Raleigh, N. C	11	1
Ramsey, F. Y	6	1
Rollins, W. W	65	1
Tapp, W. J., & Co	99	1
Haxthausen, Joseph	100	1
Thurnot, Mrs. Victor	10	1

Subject.	No.	Vol.
BYNUM, WILLIAM D.		
From Committee on Ways and Means.		
Amendment to act relating to admission of articles for the World's Columbian Exposition	108	1
CATCHINGS, THOMAS C.		
From Committee on Rules.		
Committees of House of Representatives	1	1
Rules of House of Representatives	2	1
CLARK, CHAMP.		
From Committee on Claims.		
Flanigan, Mary Matilda	35	1
Hurley, Edward	34	1
Kiener, Christian	36	1
Williams, Louis L	72	1
COBB, JAMES E.		
From the Committee on the District of Columbia.		
Sale of intoxicating liquors in the District of Columbia	167	1
COCKRAN, W. BOURKE.		
From Committee on Ways and Means.		
New York Exposition	156	1
COMPTON, BARNES.		
From Committee on Appropriations.		
Clerks for Health Office, District of Columbia	48	1
COOPER, S. B.		
From Committee on War Claims.		
Morrow, W. B	54	1
COUSINS, ROBERT G.		
From Committee on Claims.		
Florida, claim of (minority)	4	1
COX, NICHOLAS N.		
From Committee on Banking and Currency.		
Safety of National Banks	23	1
From Committee on Claims.		
Lincoln, Nebr., to pay for paving around public building	46	1
CUMMINGS, AMOS J.		
From Committee on Naval Affairs.		
Speed trials and premiums paid on naval vessels	96	1
DINGLEY, NELSON.		
From Joint Commission of Congress to inquire into the status of laws organizing the Executive Departments.		
Contracts for fuel and other supplies for the Departments	152	2
DOCKERY, ALEXANDER M.		
From Joint Commission to inquire into the status of laws Organizing the Executive Departments.		
Reference to laws organizing Government establishments at national capital	49	2
Number and title of Executive Departments, employés, etc	88	2
ELLIS, WILLIAM R.		
From Committee on Public Lands.		
Extensions to purchasers of certain lands	154	1
Keady, William P	80	1
Purchasers of certain timber lands	82	1
ENLOE, BENJAMIN A.		
From Committee on War Claims.		
Johnson, Hiram, and others	38	1
Johnson, William	58	1
FITHIAN, GEORGE W.		
From Committee on Merchant Marine and Fisheries.		
American registry for foreign-built ships	148	1
FYAN, ROBERT W.		
From Committee on Invalid Pensions.		
Giseburt, Ambrose	124	1
GEARY, THOMAS J.		
From Committee on Interstate and Foreign Commerce.		
Bridges, to allow erection across—		
Caddo Lake	128	1

Subject.	No.	V
GEARY, THOMAS J.—Continued.		
From Committee on Interstate and Foreign Commerce.		
Bridges, to allow erection across—Continued.		
Calcasieu and Sabine rivers	130	
Hudson River at New York	15	
Little River, Arkansas	153	
Neches and Sabine rivers	165	
Sulphur River	129	
GOLDZIER, JULIUS.		
From Committee on War Claims.		
Amick, Henry	136	
Fletcher, Nathan (heirs of)	39	
Thompson, Arden	132	
Tompkins, Sally H	133	
Trump, Russell G	137	
Walker, Charles	134	
Walker, Hiram	131	
White, William P	113	
Yeager, H. A	135	
GOODNIGHT, ISAAC H.		
From Committee on the Judiciary.		
South Dakota, United States courts in	109	
GRESHAM, WALTER.		
From Committee on Public Lands.		
Right of way across Hot Springs Reservation	142	
Fort Cummings Reservation	164	
HALL, OSEE MATSON.		
From Committee on Public Lands.		
Birmingham, Sheffield and Tennessee Railroad Company, right of way to	161	
Mille Lac Indian Reservation	149	
Rights to settlers on certain lands in Oklahoma	73	
HARE, DARIUS D.		
From Committee on Public Lands.		
Lands on Great Sioux Indian Reservation	93	
HEARD, JOHN T.		
From Committee on the District of Columbia.		
Clerks for Health Office, District of Columbia	9	
Massachusetts avenue, extension of	45	
HENDERSON, JOHN S.		
From Committee on Post-Offices and Post-Roads.		
Approval of Postmasters' bonds	33	
HERMAN, BINGER.		
From Committee on War Claims.		
Property lost in military service	43	
Judge, Henry	114	
Travilla, Robert	59	
HOUK, GEORGE W.		
From Committee on Pensions.		
Copen, Addison M	115	
From Committee on Interstate and Foreign Commerce.		
Light and fog-signal station, near Butler Flat, New Bedford, Mass.	69	
HOUK, JOHN C..		
From Committee on War Claims.		
Cumberland Female College	56	
HUTCHESON, JOSEPH C.		
From Committee on Claims.		
Florida, claim of State of	4	
Gooch, C. P	71	
Moore, Elizabeth A., *et al*	103	
Refund of certain duties, etc	29	
JOSEPH, ANTONIO.		
From Committee on Territories.		
New Mexico, admission of, as State	155	
KILGORE, C. BUCKLEY.		
From Committee on Territories.		
Utah, admission of, as State	162	

Subject.	No.	Vol.
LANE, EDWARD.		
From Committee on Judiciary.		
Qualification of voters in Cherokee Outlet	91	1
Furnishers of material, etc., on public works	97	1
Michigan, eastern district of	118	1
LAPHAM, OSCAR.		
From Committee on Military Affairs.		
Action of troops in Cherokee Strip	47	1
LAYTON, FERNANDO C.		
From Committee on the Judiciary.		
Minor offenses on public reservations	141	1
LOUD, EUGENE F.		
From Committee on Claims.		
Potomac Steamboat Company	89	1
Plant, George H	90	I
Billings, J. M	13	1
McCREARY, JAMES B.		
From Committee on Foreign Affairs.		
Consular appointments from States and Territories (resolution)	42	1
Barnes, George W., heirs of	157	1
Bradford, John S., sureties of	158	1
Chinese immigration	70	1
McLAURIN. JOHN L.		
From Committee on War Claims.		
Heirs of Robert J. Smith and others	53	1
Lynch, John A	112	1
McMILLIN, BENTON.		
From Committee on Ways and Means.		
Remission of duties on naval ordnance	30	1
McNAGNY, WILLIAM F.		
From Committee on War Claims.		
Pelham, Louis	55	1
McRAE THOMAS C.		
From Committee on Public Lands.		
Disqualification of registers and receivers	16	1
Public forest reservation, to protect	78	1
Cases pending in United States courts	61	1
Tomlin, Francis M	44	1
Cherokee allottees, etc., to purchase land	116	1
MAHON, THADDEUS M.		
From Committee on War Claims.		
McAlpin, George	52	1
Reed, Thomas B	41	1
MALLORY, STEPHEN R.		
From Committee on Interstate and Foreign Commerce.		
Revenue cutter for New England coast	106	1
Engineers on steam vessels	120	1
Aliens as officers in certain cases	121	1
Derelicts	125	1
Revenue cutter for San Francisco Harbor	126	1
Revenue cutter for Great Lakes	127	1
Equalization of salaries of inspectors of steam vessels	159	1
MARTIN, AUGUSTUS N.		
From Committee on Invalid Pensions.		
Allowance of pensions (resolution)	60	1
For information relative to administration of pension law of 1890	101	1
MEYER, ADOLPH.		
From Committee on Naval Affairs.		
Personnel of the Navy	122	1
MONEY, HERNANDO D.		
From Committee on Naval Affairs.		
Concord and *Bennington*, to remit penalties	27	1
OUTHWAITE, JOSEPH H.		
From Committee on Military Affairs.		
Army officers for detail to educational institutions	87	1

Subject.	No.	V
GEARY, THOMAS J.—Continued.		
From Committee on Interstate and Foreign Commerce.		
Bridges, to allow erection across—Continued.		
Calcasieu and Sabine rivers	130	
Hudson River at New York	15	
Little River, Arkansas	153	
Neches and Sabine rivers	165	
Sulphur River	129	
GOLDZIER, JULIUS.		
From Committee on War Claims.		
Amick, Henry	136	
Fletcher, Nathan (heirs of)	39	
Thompson, Arden	132	
Tompkins, Sally H	133	
Trump, Russell G	137	
Walker, Charles	134	
Walker, Hiram	131	
White, William P	113	
Yeager, H. A	135	
GOODNIGHT, ISAAC H.		
From Committee on the Judiciary.		
South Dakota, United States courts in	109	
GRESHAM, WALTER.		
From Committee on Public Lands.		
Right of way across Hot Springs Reservation	142	
Fort Cummings Reservation	164	
HALL, OSEE MATSON.		
From Committee on Public Lands.		
Birmingham, Sheffield and Tennessee Railroad Company, right of way to	161	
Mille Lac Indian Reservation	149	
Rights to settlers on certain lands in Oklahoma	73	
HARE, DARIUS D.		
From Committee on Public Lands.		
Lands on Great Sioux Indian Reservation	93	
HEARD, JOHN T.		
From Committee on the District of Columbia.		
Clerks for Health Office, District of Columbia	9	
Massachusetts avenue, extension of	45	
HENDERSON, JOHN S.		
From Committee on Post-Offices and Post-Roads.		
Approval of Postmasters' bonds	33	
HERMAN, BINGER.		
From Committee on War Claims.		
Property lost in military service	43	
Judge, Henry	114	
Travilla, Robert	59	
HOUK, GEORGE W.		
From Committee on Pensions.		
Copen, Addison M	115	
From Committee on Interstate and Foreign Commerce.		
Light and fog-signal station, near Butler Flat, New Bedford, Mass.	69	
HOUK, JOHN C..		
From Committee on War Claims.		
Cumberland Female College	56	
HUTCHESON, JOSEPH C.		
From Committee on Claims.		
Florida, claim of State of	4	
Gooch, C. P	71	
Moore, Elizabeth A., *et al*	103	
Refund of certain duties, etc	29	
JOSEPH, ANTONIO.		
From Committee on Territories.		
New Mexico, admission of, as State	155	
KILGORE, C. BUCKLEY.		
From Committee on Territories.		
Utah, admission of, as State	162	

Subject.	No.	Vol.
OCKDALE, THOMAS R.		
From Committee on the Judiciary		
Mississippi, United States courts in	163	1
District of Columbia, to amend Revised Statutes relative to certain deputy clerks	140	1
STONE, WILLIAM A.		
From Committee on the Judiciary.		
Amending laws relative to inspection of iron and steel plates	25	1
STONE, WILLIAM J.		
From Committee on War Claims.		
Hunt, Anna	77	1
STORER, BELLAMY.		
From Committee on Interstate and Foreign Commerce.		
Amending act to regulate commerce, relative to certain documents as evidence	81	1
Posting of railroad tariff of rates, etc	68	1
TUCKER, HENRY ST. GEORGE.		
From Committee on Election of President, Vice-President, and Representatives in Congress.		
Repeal of Federal election laws	18	1
TALBOTT, J. FRED C.		
From Committee on Naval Affairs.		
Pneumatic Dynamite Gun Company	8	1
WILSON, GEORGE W.		
From Committee on War Claims.		
Caine, Catherine	57	1
WHEELER, JOSEPH.		
From Committee on Territories.		
Stations and depots on certain railroads in the Territories	74	1
Utah, admission of, as State (minority, part 2)	162	1
WEADOCK, THOMAS A. E.		
From Committee on Mines and Mining.		
Mining claims	107	1
WOLVERTON, SIMON P.		
From Committee on the Judiciary.		
Assignment of juror and witness certificates	110	1
Return of fees, etc., by court officers	111	1

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1.

APPOINTMENT OF AND NUMBER ON COMMITTEES OF THE HOUSE.

AUGUST 18, 1893.—Ordered to be printed.

Mr. CATCHINGS, from the Committee on Rules, submitted the following

REPORT:

The Committee on Rules, to whom were referred the Rules of the House of Representatives of the Fifty-second Congress, recommend the adoption of the following rule:

OF COMMITTEES.

1. Unless otherwise specially ordered by the House, the Speaker shall appoint, at the commencement of each Congress, the following standing committees, viz:

On Elections, to consist of fifteen members.
On Ways and Means, to consist of seventeen members.
On Appropriations, to consist of seventeen members.
On the Judiciary, to consist of seventeen members.
On Banking and Currency, to consist of seventeen members.
On Coinage, Weights, and Measures, to consist of seventeen members.
On Interstate and Foreign Commerce, to consist of seventeen members.
On Rivers and Harbors, to consist of seventeen members.
On the Merchant Marine and Fisheries, to consist of thirteen members.
On Agriculture, to consist of seventeen members.
On Foreign Affairs, to consist of fifteen members.
On Military Affairs, to consist of fifteen members.
On Naval Affairs, to consist of fifteen members.
On the Post-Office and Post-Roads, to consist of fifteen members.
On the Public Lands, to consist of fifteen members.
On Indian Affairs, to consist of fifteen members.
On the Territories, to consist of thirteen members.
On Railways and Canals, to consist of thirteen members.
On Manufactures, to consist of eleven members.
On Mines and Mining, to consist of thirteen members.
On Public Buildings and Grounds, to consist of fifteen members.
On Pacific Railroads, to consist of fifteen members.
On Levees and Improvement of the Mississippi River, to consist of thirteen members.
On Education, to consist of thirteen members.
On Labor, to consist of thirteen members.

On the Militia, to consist of thirteen members.
On Patents, to consist of thirteen members.
On Invalid Pensions, to consist of fifteen members.
On Pensions, to consist of thirteen members.
On Claims, to consist of fifteen members.
On War Claims, to consist of thirteen members.
On Private Land Claims, to consist of thirteen members.
On the District of Columbia, to consist of fifteen members.
On Revision of the Laws, to consist of thirteen members.
On Reform in the Civil Service, to consist of thirteen members.
On Election of President, Vice-President, and Representatives in Congress, to consist of thirteen members.
On Alcoholic Liquor Traffic, to consist of eleven members.
On Irrigation of Arid Lands, to consist of eleven members.
On Immigration and Naturalization, to consist of eleven members.
On Ventilation and Acoustics, to consist of seven members.
On Expenditures in the State Department, to consist of seven members.
On Expenditures in the Treasury Department, to consist of seven members.
On Expenditures in the War Department, to consist of seven members.
On Expenditures in the Navy Department, to consist of seven members.
On Expenditures in the Post-Office Department, to consist of seven members.
On Expenditures in the Interior Department, to consist of seven members.
On Expenditures in the Department of Justice, to consist of seven members.
On Expenditures in the Department of Agriculture, to consist of seven members.
On Expenditures on Public Buildings, to consist of seven members.
On Rules, to consist of five members.
On Accounts, to consist of nine members.
On Mileage, to consist of five members.
Also the following joint standing committees, viz:
On the Library, to consist of three members.
On Printing, to consist of three members.
On Enrolled Bills, to consist of seven members.

2. He shall also appoint all select committees which shall be ordered by the House from time to time.

3. The first-named member of each committee shall be the chairman; and in his absence, or being excused by the House, the next-named Member, and so on, as often as the case shall happen, unless the committee by a majority of its number elect a chairman.

4. The chairman shall appoint the clerk of his committee, subject to its approval, who shall be paid at the public expense, the House having first provided therefor.

O

RULES OF THE HOUSE OF REPRESENTATIVES.

AUGUST 25, 1893.—Laid on the table and ordered to be printed.

Mr. CATCHINGS, from the Committee on Rules, submitted the following

REPORT:

[To accompany Mis. Doc. No. 11.]

Your committee recommend the adoption of the rules of the last Congress with certain changes which are here explained:

First. Rule VIII, clause 1, strikes out the words, "on motion made before division or the commencement of the roll call and decided without debate, he shall be excused, or unless." The effect of this amendment is simply to avoid a motion to excuse a member from voting and leaves it to the member himself to determine whether he has such a direct or pecuniary interest in the question before the House as to relieve him of the duty of voting.

Second. In Rule X the Select Committees on the Columbian Exposition and the Eleventh Census have been dropped, there not appearing any necessity for their further continuance. Certain select committees have been made standing committees of the House. This rule had already been adopted by the House.

Third. The fifty-second clause of Rule II of the old Rules (the fifty-eighth clause of the new) is so amended as to permit the Committee on Rules to sit during the sessions of the House.

Fourth. Clause 2 of Rule XIII is dropped from the Rules as reported as being unnecessary. Clause 3 of Rule XIII as reported provides for the disposition of bills adversely reported.

Fifth. Rule XVII, clause 1, is amended by inserting a provision as to debate after the previous question where there has been no debate before it is ordered and was under the Rules of the Fifty-second Congress a part of the third clause of Rule XXVIII. This clause is further amended by permitting one motion for the previous question to operate on a bill to its final passage instead of requiring a separate motion for the previous question on the engrossment and third reading and on its passage.

Sixth. Rule XIX is amended by providing that amendments to titles of bills and resolutions shall not be in order until after their final passage, and shall be determined without debate.

Seventh. Clause 3 of Rule XXII is amended so as to prohibit debate on questions of reference. Paragraph 4 of this rule was Rule XLVII of the Fifty-second Congress.

Eighth. Paragraph 2 of Rule XXIII is so amended as to make one hundred members a quorum in the Committee of the Whole. Paragraph 6 of the same rule permits the committee at any time after the five minutes' debate has begun to close debate. Under the old rules the House alone could do this.

Ninth. Paragraph 4 of Rule XXIV is so amended as to allow the House to consider in the morning hour bills on any of its calendars. The old rule limited this right to bills on the House or Union calendars.

Tenth. Rule XXVI, second paragraph, is amended so as to give the House the same power to proceed with the public business on the days assigned to District business that it now has to Friday in each week, which is assigned to business on the Private Calendar.

Eleventh. Rule XXVIII, clause 3, is amended by striking out so much thereof as provides for debate after the previous question is ordered, this provision having been made a part of Rule XVII.

Twelfth. Rule XXXIV is amended by according the privileges of the floor to the Secretary of the Smithsonian Institution, and by limiting the privileges of the floor to such ex-members of Congress only as are not interested either as party, agent, or attorney in any claim or bill pending before Congress.

Thirteenth. Rule XXXVI is amended so as to permit the Speaker to admit members of the press to the lobby in rear of the Speaker's chair under such regulations as he may prescribe.

Fourteenth. Rule XLVII of the old rules has been inserted as paragraph 4, Rule XXII.

With this explanation your committee recommend the adoption of the rules herewith reported.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 3.

CONTEST, FIFTH CONGRESSIONAL DISTRICT OF MICHIGAN.

SEPTEMBER 9, 1893.—Ordered to be printed.

Mr. PAYNTER, from the Committee on Elections, submitted the following

REPORT:

The Committee on Elections, to whom was referred the following preamble and resolution, namely:

Whereas in the Fifth district of the State of Michigan two certificates of election were issued, one to Hon. George F. Richardson, after which, upon proceedings in the supreme court of the said State, a new canvass was ordered in certain portions of said district, upon which a new certificate was issued to Hon. Charles E. Belknap; and

Whereas each of said parties claimed to hold the proper certificate entitling him to a seat in the House; and

Whereas either party by commencing a contest would have been deemed to have waived his claim under his certificate; and

Whereas the prima facie legality and sufficiency of such certificates could not be lawfully or finally determined except by the action of this House; and

Whereas this House have decided that the said Hon. George F. Richardson's certificate entitles him prima facie to the said seat; and

Whereas by reason of the peculiarity of the said facts a contest could not be commenced in the usual form and in the usual time; and

Whereas said Hon. Charles E. Belknap desires to contest the right to said seat: Therefore be it

Resolved, That said Hon. Charles E. Belknap is authorized and empowered to file his notice of contest and institute proceedings to contest said election. That in making said contest the general statutes and the rules of contest of this House shall apply, the time fixed by the statutes being hereby extended and the right of contest being declared to have commenced at the date of the passage of the resolution seating said Hon. George F. Richardson.

beg leave to submit the following report:

It is the opinion of the committee that Charles E. Belknap should be granted the privilege to contest the right of George F. Richardson to a seat in the House from the Fifth Michigan district, and we report back the resolution with the recommendation that it be adopted with an amendment as follows, namely: Striking out after the word "date" the words "of the passage of the resolution seating said Hon. George F. Richardson," and inserting in lieu thereof "of the adoption of this report."

O

CLAIM OF THE STATE OF FLORIDA.

SEPTEMBER 11, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HUTCHINSON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 102.]

The Committee on Claims, to whom was referred House bill No. 102, submit the following report, which is substantially the report of the Committee on Claims of the Fifty-second Congress, submitted by Mr. Bullock:

The mutual accounts between the United States and the State of Florida, involved in the bill now under consideration, originated from the advances made by the State in the suppression of Indian hostilities, and in the purchase of State bonds by the Indian trust fund upon the security of the United States' indebtedness to the State for these advances.

The liability of the United States to Florida for these advances has not only the authority of the United States Constitution, but also of numerous precedents in like cases of advances in the war of the revolution, the war of 1812, and of every other war in which the States have made advances toward the public defense. The liability of the State of Florida to the Indian trust fund is attested by the possession by that fund of the State's bonds.

The bill (No. 82) is for the adjustment and settlement of these mutual accounts.

The claim of the State for these advances was, by act of Congress of March 3, 1881 (12 Stat. L., p. 520), investigated, ascertained, approved, and reported to Congress by the Secretary of War, with the report of Maj. Thos. F. Barr, Judge-Advocate of the U. S. Army, in Ex. Doc. 203, Forty-seventh Congress, first session. The Committee on Claims of the Forty-ninth Congress, considered that report and reported a bill founded thereon, favorably, and the House of Representatives passed the bill for the settlement and payment of those accounts, but that bill was passed over in the Senate.

In the Fiftieth Congress the same bill was again considered by this committee and favorably reported, but instead of action being taken thereon by the House, it was deemed best to have the claims and accounts examined and investigated by the officers of the Treasury, and to that end the fifth section of the deficiency act, approved March 2, 1889 (25 Stat. L., p. 939), directed the Secretary of the Treasury to examine this claim against the United States, as reported by the Secretary of War, and also to report to Congress the amount of all claims of the General Government against the State of Florida,—that report of the Secretary of the Treasury, dated December 14, 1889, is printed as Ex. Doc. 68, *Fifty-first Congress*, first session.

Thus both the executive departments of War and of the Treasury have examined and approved these mutual accounts, and reported them to Congress for an appropriation to settle and pay the balance.

That balance the Secretary of the Treasury reported in two forms—in both of which the principal sum due that State is fixed at the sum of $261,934.31, and the principal of the sum due the General Government from Florida is found to be the principal of the State's bonds held by the Indian Trust Fund, viz: $132,000, and both statements recognize that interest is due on each account.

By the first form of stating the mutual accounts the Secretary carries interest on the principal due the State from January 1, 1858, to January 1, 1890, and the principal due from the State to the United States is $132,000, with interest from November 27, 1873, to January 1, 1890, and the balance found due the State by the Secretary of the Treasury on January 1, 1890, is stated at $567,954.50. This form of stating the account, if brought down to the day of settlement under the bill under consideration, will be accepted by the State as a proper and full adjustment of these mutual accounts.

The committee recommends the following amendment in order to close the settlement of these accounts.

A similar bill passed the Senate in the Fifty-second Congress twice, and failed in the House only on account of a failure to reach a vote.

Your committee append to this report the report of the Committee on Claims of the Fiftieth Congress, and also the letter of the Secretary of the Treasury dated December 16, 1889.

[House Report No. 367, Fiftieth Congress, first session.]

The amounts to be reported to Congress, in the view taken by me of the provisions of the joint resolution of March 3, 1881, are as follows:

Abstract A	$154,623.66
Abstract B	7,890.92
Abstract C	34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract G	187.90
Abstract H	9,015.81
Abstract I	10.10
Abstract K	501.32
Account of J. H. Cooper	7.50
Total	224,648.09

An amount less by $54,985.58 than that of the claim as submitted by the State; $11,316.91 of this is for payment of troops for service in 1849, and $6,270.37 for the payment of two companies in cases where both muster and pay rolls are missing and referred to specifically in this report in consideration of Abstract A. The reasons for the failure to include the remainder have been hereinbefore set forth.

"Very respectfully, your obedient servant,

THOMAS F. BARR,
Judge-Advocate, United States Army.

The SECRETARY OF WAR.

The expenditures grew out of the Seminole war of 1855, 1856, and 1857, the State authorities being compelled, in the presence of an anticipated and subsequently actual outbreak of the Indians, to call forth the militia of the State, the force of United States troops then on duty being inadequate to the protection of the people. The report of the Secretary of War (Ex. Doc. 203) fully sets forth in detail the items

of expenditure allowed and disallowed. The total amount of the claim found to be due is $224,648.09.

All of the facts are set forth in letter from the Secretary of War heretofore appended, together with copies of documents which establish the necessity for the use of the troops.

From the records cited in said letter it clearly appears that the use of the troops was approved by the authorities, viz, President of the United States through the Secretary of War, and that orders were issued to have them mustered in and out of the service of the United States, so that they might be paid as other United States troops were paid.

It also appears that the orders for such mustering in and out of the service did not reach the seat of war in said State in time, and the State was left to pay the troops.

Upon this subject the following statement and letters seem conclusive:

"On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective coöperation with the United States troops; and, to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brig. Gen. Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, 'being,' as the governor remarks, 'a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter.' The governor concluded his letter by asking the Secretary of War, in behalf of the United States, 'to approve and adopt the service.'

"Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary for the President to recognize the troops as having been in the service of the United States, and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that 'an officer be sent as soon as possible to muster them in and out of the service of the United States,' which recommendation was approved by the Secretary of War, who notified the governor as follows:

"WAR DEPARTMENT,
"*Washington, D. C., May* 21, 1857.

"SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the services of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

"Very respectfully, your obedient servant,

"JOHN B. FLOYD,
"*Secretary of War.*

"His excellency JAMES E. BROOME,
"*Governor of Florida, Washington.*"

"WAR DEPARTMENT,
"ADJUTANT-GENERAL'S OFFICE,
"*Washington, D. C., May* 21, 1857.

"SIR: I have the honor to transmit a copy of a letter addressed by the governor of Florida, under date of May 3, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

"The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster rolls will at once be sent to your address.

"I am, sir, very respectfully, your obedient servant,

"S. COOPER,
"*Adjutant-General.*

"COMMANDING OFFICER, DEPARTMENT OF FLORIDA,
"*Tampa, Fla.*"

"On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"'Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question.'" (See muster rolls in appendix.)

Congress having directed the Secretary of War to ascertain the amount of the claim of Florida, and that Department having reported the amount of the claim of the State to be $224,648.09, there is no difficulty presented as to the amount.

The grounds for the claim being clearly set forth, the question arises, Is it the duty of the Government to pay said claim?

The Constitution, the laws, and the precedents in similar cases establish this liability.

Article 4, section 4, of the Constitution expressly enjoins upon the United States the duty to "protect them (the States) against invasion." The act of February 28, 1795, was passed to effectuate that provision of the Constitution, and its section 1642, R. S. included "invasion of Indian tribes" as one of the kind of invasions against which the United States shall guaranty the States.

The question of authority on the part of the President in such cases is no longer an open one, but has been decided by the Supreme Court in Luther *vs.* Burden (7 Howard, 45), that the President was the sole and exclusive judge of the fact as to when an emergency calling for Federal aid to repel invasion had arisen, and that "the State itself must determine what degree of force the crisis demands." The same was also held in Martin *vs.* Mott (12 Wheaton, 29).

In the case of Florida the State did determine that the employment of the State troops was necessary, and the Secretary of War, whose official acts are those of the President (Wilcox *vs.* McConnell, 13 Peters, 513), did decide in May, 1857, that the State troops maintained and paid by Florida were essential to the security of the State, and approved and adopted their service, and ordered that they be "mustered in and out of the United States service," that they might be paid.

Under these authorities quoted above the decision of the President was final and conclusive upon all parties, and can not be disturbed or inquired into by Congress or the courts.

The President decided that an emergency had arisen calling for Federal aid in protecting Florida. The governor decided that additional force was needed and the President approved his decision, and these troops were employed and paid by the State. Congress directs the War Department to ascertain what amount was so paid by Florida, and he ascertains and reports the sum.

A line of unbroken precedents setting forth the action of the Government in similar cases establishes the liability of the Government to pay the claim and to reimburse the State for money expended.

Such a basis of settlement introduces in this case the question of interest.

It is established that the funds at the command of the executive of the State of Florida in the years referred to were insufficient to equip, supply, and pay the troops in the field, and, relying upon the approval given by the President of the United States, through the Secretary of War, on the 21st day of May, 1857, of the services of these volunteers, the State legislature, in order to provide their equipment and maintenance, authorized the issue of 7 per cent bonds.

A portion of the bonds, amounting to $132,000, was sold by the governor to the Indian trust fund of the United States, and the proceeds of such sale were disbursed by the treasurer of the State for the "expenses of Indian hostilities," as appears from his report to the legislature for the year ending October 31, 1857 (Ex. Doc. 203, Forty-seventh Congress, first session). Another portion was hypothecated to the banks of South Carolina and Georgia as security for a loan of $222,015, and $192,331 of this loan was disbursed directly by a disbursing agent of the State in payment of "expenses of Indian hostilities," including pay of volunteers (Ex. Doc. 203, Forty-seventh Congress, first session, hereto appended).

The Government has uniformly paid interest in cases where the States have borrowed money expended in its behalf, upon which they themselves have paid interest.

We cite the cases where interest has been allowed and paid for moneys advanced during the war of 1812–'15, as follows:

Virginia, act March 3, 1825 (4 Stat. at Large, p. 132).
Maryland, act May 13, 1826 (4 Stat. at Large, p. 161).
Delaware, act May 20, 1826 (4 Stat. at Large, p. 175).

New York, act May 22, 1826 (4 Stat. at Large, p. 192).
Pennsylvania, act March 3, 1827 (4 Stat. at Large, p. 241).
South Carolina, act March 22, 1832 (4 Stat. at Large, p. 499).
Massachusetts, act July 8, 1870 (16 Stat. at Large, p. 198).

For advances for Indian and other wars the same rule has been observed in the following cases:

Alabama, act January 26, 1849 (4 Stat. at Large, p. 344).
Georgia, act March 31, 1851 (9 Stat. at Large, p. 626).
Georgia, act March 3, 1879 (20 Stat. at Large, p. 385).
Washington Territory, act March 3, 1859 (11 Stat. at Large, p. 429).
New Hampshire, act January 27, 1852 (10 Stat. at Large, p. 1).

In addition to the citations above, there seems nowhere any conflict of authorities upon this point.

Following the same line will be found the reports of the Senate Committee on Claims, No. 2, Forty-ninth Congress, first session, and No. 1900, Forty-ninth Congress, second session, respectively.

The opinion of Attorney-General Wirt on an analogous case is as follows:

"The expenditure thus incurred forms a debt against the United States which they are bound to reimburse. If the expenditures made for such purpose are supplied from the treasury of the State, the United States reimburse the principal without interest; but if, being unable itself, from the conditions of its own finances, to meet the emergency, such State has been obliged to borrow money for the purpose, and thus to incur a debt on which she herself has had to pay interest, such debt is essentially a debt due by the United States, and both the principal and the interest are to be paid by the United States." (See Opinions of Attorneys-General, vol. 1, p. 174.)

In addition, the opinion of Attorney-General Crittenden, who says:

"The act of 27th of February, 1851, is intended to indemnify the State against loss or damage. Reimbursing means repairing the loss or expenses by an equivalent. If the State of Florida has contracted obligations bearing interest, or has paid money with interest, for the use and benefit, in necessary and proper supplies for the troops called into service in 1849, to refund to the State of Florida the principal sum only, without the interest, would not reimburse the State, would not save the State from loss and damage, would not be an equivalent for the expense the State has incurred for the United States. There is no public policy, no saving to the public treasury, no virtue, no laudable end consulted in order to cut down the claims of the several States in opposition to the intention of Congress and the good faith of the Government."

Also of Attorney-General Brewster, in case of the State of New York, dated July 23, 1883—

"Undoubtedly the interest paid by the State of New York on money borrowed and applied to the objects specified in the act of July 27, 1861, forms a part of the burden borne by that State for general public defense, and constitutes a just charge against the United States, and the obligation to reimburse for payments of that kind, made under similar circumstances, has frequently been recognized by Congress, as appears by statutes above cited."

Upon the facts as presented by the official records of the State of Florida, by those of the War Department as set forth in letter of Secretary appended hereto, and from the law and precedents, your committee arrive at the following conclusions:

1. That the services were rendered by the troops of the State of Florida in connection with the Army of the United States.

2. These services were recognized and approved by the President and Secretary of War, and the Secretary of War issued orders that the troops be mustered in and out of the service of the United States for the purpose of paying for such service in the usual and regular way.

3. That before the orders for mustering in and out of service reached Florida, the State troops had been disbanded, and they could not be actually mustered, and the officers of the Army decided that there could not be a constructive muster, which was right and proper, and which brought the claim to Congress.

4. The report of the Secretary of War excludes all claims and charges except those usually allowed to the regular Army under similar circumstances.

5. The amendments recommended continue to shut out these claims and claims heretofore allowed or disallowed under other appropriations.

6. The law has been decided to be that where a State pays interest on disbursements for the United States, that in allowing the claim interest shall be allowed.

The case is further strengthened, in the opinion of the committee, by the fact that a committee of the Senate has twice reported a bill to pay the State of Florida the sum of $92,000, and a bill to that effect passed the Senate on June 9, 1886. (See Congressional Record, first session Forty-ninth Congress.)

A bill identical with this, as has been stated, passed the House of Representatives,

second session Forty-ninth Congress, the only difference between the two bills being the amount of the appropriation.

Therefore, the passage of the bill with the following amendments is recommended:

Strike out in lines 10 and 11 the words "and also any further sum that may be found to be due the said State on any other account."

In line 14, section 2, after the words "direct tax" insert the words "under the."

In line 20, after the word "paid," insert "*And provided further*, That no portion of any claim heretofore paid said State under any appropriation by Congress shall be considered in said settlement."

[House Ex. Doc. No. 203, Forty-seventh Congress, first session.]

Letter from the Secretary of War relative to the claim of Florida against the United States for the suppression of Indian hostilities between the years 1855 *and* 1860.

WAR DEPARTMENT, *Washington, May* 22, 1882.

SIR: I have the honor to transmit herewith a report prepared in this Department, in accordance with the provisions of a joint resolution approved March 3, 1881 (21 Stat., 520), for the investigation of the claim of the State of Florida against the United States for the suppression of Indian hostilities between the years 1855 and 1860.

A duplicate of this report has this day been transmitted to the President *pro tempore* of the Senate.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

To the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Report of Maj. Thomas F. Barr, judge-advocate, United States Army.

WAR DEPARTMENT,
DIVISION OF REQUISITIONS AND ACCOUNTS,
May 20, 1882.

SIR: I have the honor to submit in duplicate the following report upon the claim of the State of Florida against the United States for expenditures made in suppressing Indian hostilities in said State between the years 1855 and 1860:

This report is based upon the provisions of the joint resolution of Congress approved March 3, 1881, as follows:

"That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary or proper for or against claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department.

"In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States." (21 Stat., 520.)

From data afforded by the records of the War Department and executive publications of the State of Florida, the history of the affairs that caused the expenditures set forth in the claim now under consideration appears as follows:

Military operations in Florida during the years 1855, 1856, and 1857 extended over an area of 27,400 square miles, and were against ninety-eight hostile warriors. The forces engaged were as follows:

1. Regular troops numbered 840 in 1855; 866 for first nine months of 1856; 1,756 from October 1, 1856, to September, 1857; and 339 for the remaining four months of 1857.

2. Volunteers called out and mustered into the service of the United States (none in 1855), 321 in 1856; 1,164 in 1857.

3. Militia forces called out by the State authorities for short periods of service between December 1, 1855, and January, 1857. (See annexed Exhibit No. 1.)

December 7, 1855, Lieut. Hartsuff, of the Second Artillery, with two noncommissioned officers and eight privates, left Fort Myers, Fa., to reconnoiter the Big Cypress Swamp and its neighborhood. During the previous winter he had repeatedly passed alone, or with an escort of one man, over the very same ground, and the Indians had given no evidence of a hostile disposition. Between the date of its departure from Fort Myers and the 20th of the same month, Lieut. Hartsuff's party visited many places which had been occupied by Indians in previous years, and from signs of abandonment discovered "came to the conclusion that the Indians had left the country, with the exception of a few stragglers, and had gone, probably, to the seaboard." On the last-named date, when encamped about three miles north of Billy's Town, on an island covered with dwarf palmettos, and before breakfast, whilst preparing for a march, was attacked by a party of Indians whose number was estimated to be from twenty-five to fifty. The lieutenant and three of his men were wounded, four men were killed, and three men escaped. (See exhibits annexed, Nos. 2 and 3.)

Indian hostilities prior to and at the time above specified were anticipated by the State authorities, as is shown in the governor's message to the assembly, dated November 24, 1856, from which is taken the following extracts:

"On the 12th day of January, 1853, the general assembly passed an act entitled 'An act to provide for the final removal of the Indians from this State, and for other purposes.' The first section of that act makes it unlawful for any Indian to remain in the State. The second section requires the governor to raise a brigade.

"The fifth section provides that the governor shall tender said brigade to the Federal Government for the removal of the Indians.

"The sixth section makes it the duty of the governor, in the event of the Federal Government refusing to accept the services of said brigade, forthwith to secure the frontier settlers and employ the brigade in capturing the Indians, etc. The seventh and ninth sections provide for meeting the expenses of the force. The eleventh section provides that when the Indians commence actual hostilities the governor shall carry this act into execution."

After thus citing the law, the message continues:

"In obedience to the requirements of the act, I attempted, on my inauguration, to raise the brigade. The mounted regiment was readily procured and organized, but the infantry regiment I found it impracticable to recruit. In December last the contingency occurred upon the happening of which the executive was required to carry the law into execution. The Indians commenced actual hostilities by attacking a detachment of United States troops, commanded by Lieut. Hartsuff. This attack was entirely unexpected, and found our frontier population in an unprotected condition. The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens, naturally and properly, called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained, many men from the counties of Manatee, Hillsboro., and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped, and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible, the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive more than five companies, three of mounted men and two of infantry, the latter of which I could only procure to the extent of one detachment.

"The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements.

"I therefore determined to retain in the service of the State the companies of Capts. F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abner Johnson, and afterward added a detachment under Lieut. John Addison, making, rank and file, about 400 men. These troops have been employed partly on the frontier and partly in the Indian country. Detachments have, on three several occasions, overtaken and fought the enemy, once recovering a large amount of property (of which they had robbed one of our best citizens), and killing, as was supposed, from four to seven Indians.

"This was effected under Lieut. John Addison, without loss. The other two engagements were by small detachments from the companies of Capts. F. M. Durrance, L. G. Lesley, and W. B. Hooker, and were the most gallantly contested actions that have probably ever occurred in Florida. The Indians, having the advantage in point of numbers, appeared determined to destroy their pursuers, and such was the desperation with which they fought that one contest was decided by a resort to pocket-

knives, in which an Indian was killed by having his throat cut. In these three engagements it is supposed that over 20 Indians were killed and a number wounded, and so thoroughly were they chastised that, although more than five months have elapsed, they have not, as I have been advised, ventured an engagement or even an attack upon the frontiers. In these last two engagements we lost, in killed, Lieuts. Carleton, Whiddon, and William Harker, some of the most gallant spirits of our little army; and while all did their duty nobly, and are entitled to the gratitude of the whole State, the memories of those who perished should be embalmed in every heart.

"For a more detailed account of these gallant actions, I respectfully refer to the report of Capt. F. M. Durrance, herewith communicated." (See annexed Exhibit No. 4.)

Immediately succeeding the surprise and defeat of Lieut. Hartsuff, much uneasiness was exhibited among the frontier settlements. The governor of the State, Federal military officers, officials connected with the Indian service, and the United States postmasters, as well as the citizens whose lives and property were in danger, seem to have unitedly suggested the employment of volunteer troops and the forcible removal or destruction of the Indians. These facts are shown in the voluminous correspondence then had upon the subject, some of which accompanies this report.

On January 3, 1856, the Secretary of War wrote to Capt. Casey, of the Army, then on Indian service in Florida:

"The occurrence of actual hostilities commenced by the Seminole Indians suspends all instructions heretofore given with a view to effect the peaceable removal of those Indians." (See Exhibits 5 and 6.)

On the 7th, following, he authorized the employment in United States service of five companies of volunteers. (See Exhibits 7 and 8.) Under this authority four companies were received into the United States service—two on February 18, one on March 1, and one on March 10, 1856; and from the time last mentioned until May, 1858, some four or five companies of volunteers were continued in the said service, and were paid and supplied as were regular troops.

Before the organizations were received into United States service, however, they, with other bodies of men, had been accepted by the governor, and had been actively employed as militia companies in the service of the State.

Of some of these organizations the department commander, Col. Munroe, wrote to the governor, January 12, 1856, that—

"The State volunteers, under Capts. Kendrick and Johnston and Lieut. Kendrick, performed their thirty days' service south of the Caloosahatchee and in the Everglades, with much credit to themselves; and they have been spoken of by the United States officers with whom they were associated on their tour in the most favorable manner." (See Exhibit No. 9.)

The communication of January 12, 1856, seems to be the first recognition had through any United States official of services rendered by the militia after the surprise in December, 1855. The companies above mentioned, as those of Capts. Kendrick and Johnston and Lieut. Kendrick, were in the militia service of the State at the time, and did not become United States volunteers until a later period.

The expenditures made by the State for these and other militia companies from December, 1855, to December 31, 1860, are now presented for consideration under the resolution of Congress aforesaid.

The organizations to which the expenditures relate, with number of vouchers for their pay, period of State service paid for by the State, and time of muster into United States service, are specified on the annexed Exhibit No. 10.

The claim of the State is submitted on abstracts of vouchers, as follows:

A, for pay of troops	$180,037.28
B, for subsistence	23,474.90
C, for forage	42,279.52
D, for transportation	19,843.28
E, for camp and garrison equipage	193.81
F, for quartermaster's stores	589.67
G, for ordnance stores	808.43
H, for contingencies	10,332.84
I, for stationery	111.11
K, for medical and hospital stores	1,362.83
Total	279,033.67

After my assumption of the duties of this office a communication was addressed to Hon. William D. Bloxham, governor of the State of Florida, requesting him to furnish the War Department with a transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing officer, exhibiting expenditures made in settlement of militia claims, for service and for supplies, in the year 1856 (an uncer-

tified copy of which had been submitted as a partial basis of the claim under consideration), and also of any other financial exhibits to be found on the records of the State germane to the subject. (See Exhibit 11.)

Under date of April 12, 1882, Governor Bloxham forwarded the transcripts as requested (see Exhibits 12, 13, and 14), from which it appears that Capt. Pearson was given credit in the settlement of his accounts for the sum of $193,330.16; and that warrants drawn by the State treasurer on account of Indian hostilities amounted to $78,056.11. These sums aggregate $271,041.27, or $7,992.40 less than the amount claimed to have been expended by the State according to the claim as hereinbefore set forth.

On December 20, 1859, as appears from page 113 of a journal of the proceedings of the senate of the general assembly of the State of Florida covering that date, a resolution was *introduced in the senate* calling upon members of Congress from Florida to procure the passage of a law refunding to the State the sum of $241,300, advanced by the State on the payment of Florida troops. This sum is the amount of the loan negotiated by the State upon which $222,015 was realized and placed in the hands of Capt. J. W. Pearson for disbursement. All the amounts seth forth in the transcripts furnished by the governor were, it is to be remarked, expended prior to the date when this resolution was offered. These discrepancies of statement as to amounts expended, coupled with the loss and destruction of certain vouchers during the war of the rebellion, serve to greatly embarrass a consideration of the claim as submitted.

After a careful study of the resolution it was concluded by me that its scope only embraced expenditures made incident to the suppression of Indian hostilities during the period mentioned therein, and that it did not embrace the payment of antecedent claims of a like character which happened to be paid at the same time as were the claims specified by the terms of the resolution. Acting upon this judgment, I have eliminated from consideration the following payments made by the State for services in the year 1849:

Capt. Hansford D. Dyche's company	$4,786.43
Capt. Aaron Jernegan's company	4,929.48
Capt. James O. Devall's company	1,601.00
	11,316.91

This leaves the sum of $168,720.37 to be passed upon under the head of Abstract A, for pay of troops. This abstract, with its accompanying vouchers, was referred to the Paymaster-General of the Army for examination and report upon the propriety of the payments made under the laws of the United States governing organization and rates of pay and allowances during the period charged, and also as to what payments should not be accepted under the terms of the joint resolution. (See Exhibit 15.) Both pay and muster rolls of Capt. John McNeil's company and Capt. Simon Sparkman's company, upon which payments amounting, respectively, to $3,303.06 and $2,967.31, appear to have been made by Capt. Pearson, have been lost, so that rolls amounting to but $162,450 could be submitted to the administrative scrutiny of the Paymaster-General.

As to the payments embraced in this amount, that officer submits a report, dated April 20, 1882 (see Exhibit 16), with statements of differences, numbered to correspond with the vouchers to which they respectively pertain, showing in detail the amounts claimed, allowed, suspended, and disallowed, with reasons for suspension or disallowance. (See Exhibit 17.)

This statement notes suspensions to the extent of $50,852.11, and disallowances in the sum of $11,977.40, leaving $99,620.49 as the amount allowed under the strict rules of examination governing the scrutiny of paymasters' accounts in the office of the Paymaster-General. Under the joint resolution of Congress, however, it is conceived that those rules cannot be so applied, and that the chief purpose of the investigation thereby directed is to ascertain what expenditures were actually made by the State in the suppression of Indian hostilities by its militia, of a character which would have been made by the General Government had the troops in question been in its service. In this view suspensions of amounts paid to attorneys or administrators because no power nor letter of administration is found, while property noted by the Paymaster-General, will not govern the conclusion of this report. The vouchers will be considered in their order, as follows:

Voucher No. 1.—Amount, $4,809.57; suspended, $307.87; disallowed, $252.56. The disallowances are based upon overpayments. The company was mustered into the United States service February 21, 1856, and paid for that day in such service, while it appears by this voucher its members were paid by the State. The suspension rests on the absence of powers of attorney and letters of administration. These payments were made by the State in 1859, and the accounts of the officer by whom they were paid were accepted and certified to by the proper State officers. It may be assumed that he furnished satisfactory proof of their having been made to authorized parties

at that time. It is my conclusion, therefore, that the amounts suspended in this voucher should be added to the amount allowed. Together they aggregate $4,557.01. (See Exhibit 18.)

Voucher No. 2. Amount, $15,794.91; suspended, $6,916.81; disallowed, $789.19. The same remarks apply to this statement as are noted in regard to voucher No. 1. The amount admitted as falling within the intent of the joint resolution is $15,005.72. (See Exhibit 19.)

Voucher No. 3. Amount, $9,693; suspended, $3,598.24; disallowed, $125.08. Applying rule as above, amount allowed should be $9,567.92. (See Exhibit 20.)

Voucher No. 4. Amount, $16,277.99; suspended, $2,235.20; disallowed, $119.53. Amount allowed should be $16,158.46. (See Exhibit 21.)

Voucher No. 5. Amount, $8,906.50; suspended, $1,581.34; disallowed, $74.39. Amount allowed should be $8,832.11. (See Exhibit 22.)

Voucher No. 6. Amount, $16,739.85; suspended, $3,638.36; disallowed, $280.19. Amount allowed should be $16,459.66. (See Exhibit 23.)

Voucher No. 7. Amount, $8,833.93; suspended, $2,084.19: disallowed, $127.47. Amount allowed should be $8,706.46. (See Exhibit 24.)

Voucher No. 8. Amount, $14,108.34; suspended, $888.83; disallowed, $368.04. Amount allowed should be $13,740.30. (See Exhibit 25.)

Voucher No. 9. Amount, $574.68; suspended, $90.18; disallowed, $30.19. Amount allowed should be $544.49. (See Exhibit 26.)

Voucher No. 10. Amount, $9,667.71; suspended, $1,926.36; disallowed, $206.20. Amount allowed should be $9,461.51. (See Exhibit 27.)

Voucher No. 11. Amount, $2,059.45; suspended, $167.59; disallowed, $55.40. Amount allowed should be $2,004.05. (See Exhibit 28.)

Voucher No. 12. Amount, $11,510.89; suspended, $3,896.93; disallowed, $18.58. Amount allowed should be $11,492.31. (See Exhibit 29.)

Voucher No. 13. Amount, $5,804.18; suspended, $1,671.51; disallowed, $106.13. Amount allowed should be $5,698.05. (See Exhibit 30.)

Voucher No. 14. Amount, $1,994.82; suspended, $809.19; disallowed, $12.97. Amount allowed should be $1,981.85. (See Exhibit 31.)

Voucher No. 15. Amount, $180.14; suspended, $14.19; disallowed, $1.10. Amount allowed should be $179.04. (See Exhibit 32.)

Voucher No. 16. Amount, $3,526.62; suspended, $1,440.53; disallowed, $115.01. Amount allowed should be $3,411.61. (See Exhibit 33.)

Voucher No. 17. Amount, $784.40; suspended, $229.26; disallowed, $3.38. Amount allowed should be $781.02. (See Exhibit 34.)

Voucher No. 18. Amount, $3,243.36; suspended, $1,928.74; disallowed, $44.20. Amount allowed should be $3,199.16. (See Exhibit 35.)

Voucher No. 19. Amount claimed to have been paid on this voucher is $10,232.43 to the members of Capt. John Addison's company. The pay roll which should have constituted this voucher has been lost, and the muster roll of the company alone is furnished. For this reason the Paymaster-General reports a suspension of the whole amount. The muster roll indicates a service from April 8 to October 7, 1856, and upon this basis the Paymaster-General makes a computation of the amounts to which the members were entitled, which aggregate $10,860.27, or an excess of $627.74 above the sum in which the State now claims reimbursement. Capt. J. W. Pearson, as appears by the transcript of his account with the State, actually paid this company $10,232.43, and the State paymaster certified to a comparison of the payments with the pay rolls. It is believed that this payment should be admitted as established. (See Exhibit 36.)

Voucher No. 20.—Amount, $4,556.59. This also rests upon a muster roll alone, and in the absence of the pay roll it can not be determined which of the men were paid. A computation based upon the period of service indicated by the muster roll, October 8 to December 15, 1856, establishes the amount proper to have been paid as $4,023.98. The payment of this company by Capt. Pearson to the amount of $4,556.59 is certified to by the State paymaster. The amount as computed by the Paymaster-General should, it is believed, be held to be within the provision of the joint resolution. (See Exhibit 37.)

Voucher 21 and *Voucher* 22, referred to in Abstract A, pertaining to John McNeil's company and S. Sparkman's company, for the amounts, respectively, of $3,303.06 and $2,967.31. Neither muster rolls nor pay rolls are furnished, and there is, therefore, no data of service nor of the membership of the companies upon which to base even an estimate. It can only be said that Capt. Pearson received credit for the payments. But as it is impossible to decide, as is required by the terms of the joint resolution, whether the allowances made on the missing rolls were or were not in excess of the amounts allowed by law to troops regularly in the service of the United States at the time, I do not feel justified in recommending that the amounts as stated be admitted as properly expended. This statement, it is believed, is sufficiently clear to enable Congress to pass upon the question as to whether these two rejected items should be

included in any appropriation made for the reimbursement of the State, in the event of such legislative action being had in the premises.

Voucher 23.—Amount, $809.15. The same remarks apply to this item as appear in consideration of voucher No 20. The pay roll is lost, and a computation based upon the muster roll for the period of service it indicates (September 6 to 30, 1856) shows that if all the members were paid, the amount would have aggregated $1,120.41. The amount claimed for ($809.15), having been promptly certified to by the State paymaster, may properly, it is claimed, be admitted as expended. (See Exhibit 38.)

Vouchers 24, 25, and 26, referring to services in 1849, were eliminated from the case, as has hereinbefore been remarked.

Voucher 26½.—Amount claimed as per abstract, $12,341.49, as payments to field and staff. A computation of the service of officers as shown by the roll filed in the office of the Adjutant-General, and the additions thereto of amounts paid on subvouchers only, aggregate $10,142.09, leaving $2,199.40 unaccounted for. The Paymaster-General in his report recommends allowance of $1,265.08, the suspension of $2,361.23, and the disallowance of $6,515.78. The disallowances are made for the reason that no vouchers or receipts are furnished by the officers, and no evidence of any kind appears as to the individual payments. The suspensions are because of the absence of evidence connecting the persons paid with the service. The suspended payments are as follows: M. Whit Smith, pay as colonel from June 12 to October 30, 1856, $1,075.40. His name is not on the staff roll, nor does there appear any certificate of his service. There was no regimental organization, and this officer would not have been recognized and paid in the service of the United States had the different organizations of militia been mustered therein. The payment of $833 to Edward R. Ives, assistant quartermaster, of $370 to Richard N. Jefferys, quartermaster's clerk, and $85.33 to Perry G. Wall, wagonmaster, are subject to the same remark. In my judgment these suspensions should be made absolute, and not admitted as embracing proper expenditures. It is also my judgment, however, that the amount of $6,512.29, disallowed, may properly be admitted and included in a report of the amount expended by the State; $3.49 of the amounts carried among the disallowances pertained to the suspended accounts, rejected as above. The amount allowed in the view above expressed should be $7,777.37, which is less by $4,564.12 than the sum set forth in the abstract and in Capt. Pearson's account, and less by $2,361.23 than the amounts embraced in the claims pertaining to this voucher as submitted. (See Exhibit 39.)

The aggregate of the allowances reported by the Paymaster-General under Abstract A is $99,620.49; suspensions, $50,852.11; disallowances, $11,977.40. The aggregate of the sums admitted as falling within the purview of the joint resolution, as specified in the consideration of the vouchers pertaining to this abstract, is $154,623.66. Should the amounts expended by Capt. Pearson on the missing vouchers Nos. 21 and 22 be also accredited, the total would be $160,894.03.

Abstract B, subsistence stores, covering alleged expenditures amounting to $23,474.90, having been referred to the Commissary-General for examination (see Exhibit 40), was by him returned May 19, 1882, with a report setting forth the errors, irregularities, etc., found existing in the abstract and vouchers (see Exhibit 41). From the detailed statement accompanying this report it appears the amount of this abstract should have been $23,836.44¼. Of this amount the Commissary-General reports as having been expended properly, with proof submitted of payment to authorized parties, $6,061.31. His report is summarized as follows:

Amount of abstract		$23,836.44¼
Amount of vouchers purchased of company commander	$1,297.72	
Amount of vouchers missing	2,614.79¼	
Amount of vouchers not receipted	11,575.59¼	
Amount of vouchers receipted by administrator	531.89¼	
Amount of vouchers, unauthorized expenditures	1,755,13	
		17,775.13¼
		6,061.31

$1,514.52 of the amount included in unauthorized expenditures is for purchases in 1849.

As the stores purchased from officers, although prohibited by regulations, were acknowledged by the State as properly purchased, it is believed that the sum of $1,297.72 disallowed by the Commissary-General should be included in the established claim of the State. The same may be remarked of the disallowances based upon th absence of letters of administration and powers of attorney, and these, amountin to $531.89¼, are admitted, making an aggregate of $7,890.92 entitled, in my judgment, to acceptance.

For the disallowances because of missing vouchers, $2,614.79¼, and of vouchers not receipted, $11,575.59¼, there is no reasonable ground for including them. For all that appears, the missing vouchers may pertain to expenditures in 1849, while the vouch-

ers not receipted are simply invoices. Such portions of the claim as partake of this character should, it is held, be passed upon by the accounting officers of the Treasury under proper equitable rules provided by legislation in that behalf. (See Exhibit 42.) Abstracts C, D, E, F, H, and I, with supporting vouchers, together with four separate accounts, were referred to the Quartermaster-General of the Army, with similar instructions to those contained in the communication to the Paymaster-General. (See Exhibit 43.)

These abstracts aggregate as follows:

Abstract C, forage	$42,279.52
Abstract D, transportation	19,843.28
Abstract E, camp and garrison equipage	193.81
Abstract F, quartermaster's stores	589.67
Abstract H, contingent for troops	10,332.84
Abstract I, stationery	111.11
Account of J. M. Cooper, services	7.50
Account of J. A. Garrard, services	22.00
Account of Fred Dykes, rent	5.00
Account of P. G. Wall, rent	31.25
Total	73,415.98

Upon these abstracts and accounts the Quartermaster-General reported, under date of April 20, 1882:

That the expenditures which seem to have been properly made are supported by vouchers issued by officers of the Florida Volunteers and by Jesse Carter, a special agent of the State, which I think may be accepted as reasonable charges, and are in amount as follows:

Abstract C	$34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract H	9,015.81
Abstract I	10.10
Account of J. M. Cooper	7.50
Total	61,444.29

(See Exhibit 44.)

This is a reduction from the amount as claimed of $11,971.69, arising from the absence of subvouchers, the absence of signatures acknowledging receipts, and errors of computation.

The Quartermaster-General reports that, from such comparisons as the records of his office afford opportunity to make, the prices for forage, transportation, etc., paid by the State appear to have been reasonable.

The amount claimed to have been expended for "forage," Abstract C, is $42,279.52, of which the Quartermaster-General is of opinion that $34,669.74 was properly expended, and that payment thereof is shown to have been made.

The difference between these two amounts, $7,609.78, arises from absence of vouchers in support of alleged payments, absence of signatures in acknowledgment of receipt, and error in vouchers. These vouchers appear to have been paid by Jesse Carter, special agent for the State, of whose accounts, as accepted by the State, no transcript is furnished. It will be observed that upon Abstract D, transportation, the Quartermaster-General finds payments supported by sufficient evidence to the amount of $17,247.39, a less sum by $2,959.89 than that submitted, while in the statement of Capt. J. W. Pearson's account, hereinbefore referred to, and by whom all the subvouchers appear to have been paid, he claimed credit for payments of claims for transportation of $17,546.95. Under this head there are subvouchers missing to the extent of $2,060.14, and subvouchers amounting to $535.75, not properly receipted.

Of the payments claimed to have been made for camp and garrison equipage vouchers for but $98.59 are furnished, the balance, $95.22, not being sustained.

Under Abstract F, quartermaster's stores, there is a disallowance of $55.56, caused by a missing voucher, and $138.95 by a nonreceipted voucher, leaving, as approved by the Quartermaster-General, the sum of $395.16.

For "contingencies" Abstract H, there is admitted the sum of $9,015.81, subvouchers amounting to $716.78 being missing, and others for $600.25 not being receipted.

For "stationery," Abstract I, proof is furnished for the payment of but $10.10, no voucher appearing in support of an alleged payment of $44.10, and vouchers amounting to $56.91 not being receipted.

The accounts of Jacob A. Garrard, $22, Fred. Dykes, $5, and P. G. Wall, $31.25, are not receipted and are not approved by the Quartermaster-General.

The statement accompanying the report of the Quartermaster-General, setting forth the errors, irregularities, etc., commented upon, is appended to this report. (See Exhibit 45, 46, and 47.)

Abstract G, ordnance, for $808.43, was referred to the Chief of Ordnance for examination (see Exhibit 48), and by him returned with a statement setting forth the amounts allowed and disallowed (see Exhibit 49). This statement embraces accounts amounting to $623.43, no voucher for an alleged payment of $235 to Post & Mel having been filed. Of this amount the Chief of Ordnance reports an allowance of $507.80. The item not considered is found filed with Abstract B as part of an invoice simply made out in the name of the firm indicated. It can not be accepted as evidence of a money payment. The same may be remarked of another account in the name of the said firm upon which the Chief of Ordnance reports an allowance of $156.50, and of an invoice of stores amounting to $205 in the name of E. G. Rogers & Co., upon which an allowance is made by the Chief of Ordnance of $163.40. Neither of these allowances should, it appears to me, be included in a report based upon the terms of the joint resolution, and they are therefore deducted from the total sum reported by the Chief of Ordnance, leaving, as properly established under Abstract G, $187.90. Abstract K, pertaining to medical attendance and medicines, was referred to the Surgeon-General for examination. (See Exhibit 50.)

This abstract embraced accounts amounting to $1,357.83, less by $5 than the sum it was submitted to sustain. The Surgeon-General recommends the allowance of $501.32. His reasons for failing to recommend the allowance of the remainder of the sum are set forth in his report, which is appended hereto. (See Exhibit 51.) Accounts are not certified nor receipted, and in one account the acknowledgment is simply of the receipt of a certificate of compensation.

In the examination of the State's claim and the preparation of the report full consideration has been given to the facts as to the loss of vouchers belonging to the State during the war of the rebellion, and amounts admitted as having been expended, even when receipts were missing, if evidence could be found tending to show that the payments were really made. Such claims as could be sustained by reference to the audited and accepted account of Capt. J. W. Pearson have been embraced in the conclusions of this report, but beyond this there has seemed to be no legitimate room for widening the field of inquiry and inferentially to admit payments to have been regularly made.

The amounts to be reported to Congress in the view taken by me of the provisions of the joint resolution of March 3, 1881, are as follows:

Abstract A	$154,623.66
Abstract B	7,890.92
Abstract C	34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract G	187.90
Abstract H	9,015.81
Abstract I	10.10
Abstract K	501.32
Account of J. M. Cooper	7.50
Total	224,648.09

an amount less by $54,985.58 than that of the claim as submitted by the State; $11,316.91 of this is for payment of troops for service in 1849, and $6,270.37 for the payment of two companies in cases where both muster and pay rolls are missing and referred to specifically in this report in consideration of Abstract A. The reasons for the failure to include the remainder have been hereinbefore set forth.

Very respectfully, your obedient servant,

THOMAS F. BARR,
Judge-Advocate, U. S. Army.

The SECRETARY OF WAR.

EXHIBIT No. 1.

[Indorsement on letter (No. 199 S.) of Hon. I. I. Stevens, dated May 17, 1858, relative to the number of regular and volunteer troops employed in Florida in 1855, 1856, and 1857, and the number of Indians engaged in hostilities, etc.]

1st. The average number of regular troops employed in the late Indian difficulties in Florida was, in 1855, 840; in the first nine months of 1856, 866; from October 1, 1856, to September 1, 1857, 1,755; and in the remaining four months of 1857, 339.

Of volunteers there were employed in 1855, *none;* in 1856, an average number of 321; in 1857, an average number of 1,164; and in addition to these, who were called into service by the Federal authorities, the State authorities of Florida called out for short terms of service, in the year 1855, certain other companies of volunteers, whose services have not as yet been recognized by Congress.

2d. The number of Indian warriors engaged in these hostilities is, from the best information contained in the records of this office, supposed to have fallen short of 100. The Indian Office may possibly be more correctly informed on this head.

3d. According to the calculations of an officer of the Corps of Topographical Engineers (Lieut. G. K. Warren), the military operations during the period named extended over an area of 27,400 square miles, being all that portion of Florida lying south of the twenty-ninth parallel of north latitude.

Respectfully submitted.

S. COOPER,
Adjutant-General.

ADJUTANT-GENERAL'S OFFICE, *May* 20, 1858.

EXHIBIT No. 2.

HEADQUARTERS TROOPS ON THE CALOOSAHATCHEE,
Fort Myers, December 24, 1855.

SIR: In my letter of the 21st instant I informed you of the attack on Lieut. Hartsuff's party by the Indians. I now proceed to give a more detailed statement of the affair and of the operations of Lieut. Hartsuff from the time of his leaving this post until the attack on his camp.

Lieut. Hartsuff was ordered, with two noncommissioned officers and eight privates (six mounted and two on foot), with two six-mule teams, to proceed to and reconnoiter the Big Cypress swamp and its neighborhood, his whole force, including teamsters, being ten men, a number deemed by me sufficient, he having during the last winter repeatedly passed unmolested alone and with an escort of one man over the very same grounds, and the Indians never subsequently having given the slightest evidence of a hostile disposition. Accordingly, on the morning of the 9th instant he left this post, and, as I learn from the reports of the men of his party who escaped (copies of which I send you), he encamped on the second day's march 30 miles from his post, and with a sergeant and two privates went on a reconnaissance. He saw while out an Indian man and boy driving hogs, who endeavored to avoid him, and who showed no disposition to give him information. He, the next morning, reached Fort Simon Drumm, and found the fort burned. He then proceeded to Fort Shackelford, and found it burned. He remained there two days, engaged in visiting the neighboring villages and exploring the country, but found no Indians and no evidence of their having been there for months. He then returned to Fort Simon Drumm, and marched from thence towards Billy's town, one day's march south. He encamped about 3 miles north of Billy's town, in a fine island covered with dwarf palmettoes, and was employed two days (the 18th and 19th) in examining the country, during which time he visited Billy's town, Assenwat's town, and several other villages, and saw no Indians and not the slightest evidence that any had during the summer been there. On the contrary, the paths, which were fresh and traveled last winter are now quite overgrown. He thus came to the conclusion that the Indians had left the country, with the exception of a few stragglers, and had gone probably to the seaboard. He then ordered his party to prepare for an early start for this post in the morning (Thursday, the 20th instant). Accordingly the men had at daybreak got their breakfasts, struck their tents, and partly saddled and harnessed their horses and teams (Lieut. Hartsuff himself not yet having breakfasted nor had his tent struck), and were employed in preparing for their march, when they were attacked by a party of Indians, varying, in the opinions of the different men, from 25 to 40. The Indians being distant about 15 to 20 yards, and behind trees, and the soldiers in the open prairie, there is great obscurity as to the conduct of part of these men, which requires a closer investigation than I can now give it, but the probability is that the most of them fell

at the first fire. Lieut. Hartsuff, on hearing the whoop, ran immediately from his tent to the wagons, passing a soldier (Foster or Hook) with his leg broken, and found at the wagon three privates, Hanna, of Company K, Baker, of Company G, and Murtagh, of Company K. He was wounded in the arm probably in passing from his tent to the wagon. Being from his wound unable to load, he directed one of the men to load for him, and he fired two or three times with a musket and about the same number with a rifle. He was, while so engaged, and most nobly and gallantly encouraging his men, again struck in the breast, the ball striking his pistol hilt and stunning him. Whether wounded a third time seems somewhat doubtful, but he probably was, in the arm, when he told the men (they all being wounded and Murtagh killed) they could do no more, and directed them to take care of themselves, and he himself retreated to the hammock, since which he has not been seen or heard of and it is to be feared that he has fallen. He was nobly sustained in his short and unequal conflict by Privates William Baker, of Company G, and John Hanna, of Company K, and by Private Patrick Murtagh, of Company K, who fell. Had he been equally supported by the rest of his command, the result might have been very different. Private Foster, of E, or Hook, of G, fell early with his thigh broken. Hurst, of E, having fired once, hid himself in a hammock. Sergeant Holland, of K, and Corporal Williams, of G, abandoned the party apparently without an attempt at defense, and of the rest nothing is known.

Five have escaped and arrived at this post, viz, Sergt. Holland, Corpl. Williams, and Privates Hanna, Baker, and Houst. Of the others, with their brave commander, nothing has been heard, and it is to be feared all have fallen.

Lieut. Hartsuff was an officer of great promise, intelligent, amiable, and energetic. He was beloved as a man and respected as a soldier, and in him the service has suffered a great loss.

I am, sir, very respectfully, your obedient servant,

HARVEY BROWN,
Brevet Colonel, Commanding.

Lieut. T. M. VINCENT,
Acting Assistant Adjutant-General.

EXHIBIT No. 3.

HEADQUARTERS TROOPS ON CALOOSAHATCHEE,
Fort Myers, December 27, 1855.

SIR: I have the very great satisfaction of reporting the safety of Lieut. Hartsuff, who arrived here, under escort of Capt. Allen's company, about 2 o'clock yesterday afternoon, and, though severely wounded, in much better condition than could have been hoped for. He has two ugly wounds, neither of which the doctor considers dangerous. The one is a flesh wound through the arm, the other in the left breast. The surgeon at Fort Simon Drumm probed to the extent of 2¼ inches without finding the ball, and since here the doctor has not deemed it advisable to make further search. He is comfortable and doing well. His statement of the affair as well as of his previous proceedings are strongly corroborative of those of Privates Hanna and Baker. Of their bravery and coolness he speaks in the highest terms. The former, besides a very severe wound in the belly, had a ball through his hat, two through his coat, and three through his pantaloons; the other was wonderfully preserved by the ball striking his knife and bending it up. Lieut. Hartsuff himself escaped in a similar manner, a ball having struck the cylinder of his pistol, very much stunning him and giving him intense pain, but otherwise not serious.

Lieut. Hartsuff says he considered the burning of the forts as a cause for additional care and vigilance, but not for the abandonment of the duty on which he was sent; that he was confirmed in his opinion by the abandonment of the country, he not finding the slighest trace of Indians, or of their having been at any place he visited during the past season.

On the morning of the fight, when he first heard the whoop and the firing, he had just arisen. He secured his revolver, and, looking through the opening of the door of his tent, distinctly saw the Indians behind the trees, their attention directed to the wagons. Three or four of them were within as many yards of him, the others at various distances, scattered through the little pine island, in front of and distant twelve to fifteen paces from the wagons, their flank to him. He fired twice at the Indians, and both times with effect, the Indians being almost within reach of his arm. He then, hearing the firing at the wagons, ran there and joined his command. He there found Privates Murtagh laying on the ground badly wounded, and Hanna and Baker standing behind the wagons and engaged with the enemy. He left Horth near his tent, and Foster between the tent and wagon, on the ground, both severely wounded. All

this was within the space of 5 minutes' time. Murtagh told him that his musket was loaded. He took and fired it, and then Baker loading for him, he fired several times, during which he received a wound in the arm, which he thought had broken it, and afterwards another, which gave him intense pain and great faintness, and which at the time he thought mortal. He then told the two surviving men that he could do nothing more and they must take care of themselves, and he endeavored to get to a hammock distant about 20 yards, and fell on its edge, Hanna and Baker passing him, and the latter telling him that he would try to get to Fort Myers and carry the news. All this was within fifteen or twenty minutes of the first fire. He then endeavored to get on, but in crossing a lily pond close by he fell and was unable to rise again, the water covering all but his head. While there he heard an Indian repeatedly cry, "Come out; come out!" He remained there about two hours, when the agony of his wound was so intense that he contrived to get up and walk towards the road, some two hundred yards, where he fell, from exhaustion, among the dwarf palmettoes. He remained there, unable to move, until night, when he moved half a mile. He then fell again exhausted, and so remained, unable to move, for two days and nights, and until the evening of Saturday, when he succeeded in getting up (he having had no food or water, and suffering from thirst and but little from hunger), and commenced his march towards Fort Simon Drumm, being able to go about half a mile at a time. He thus proceeded till sunrise, and then laid by completely exhausted. He here, however, got water. He remained concealed in this place until the afternoon (Sunday), when he resumed his march, and reached Fort Simon Drumm about 8 o'clock p. m., and there found Major Arnold's command.

The following is the result of the battle, so far as known: One first lieutenant and three privates wounded; four privates killed, and one sergeant, one corporal, and one private unhurt; total, 11—4 killed, 4 wounded, and 3 escaped; total, 11.

Lieut. Hartsuff reports the country as being very wet towards the Everglades, for many miles covered with water.

The perfect coolness and bravery of Lieut. Hartsuff in these most trying circumstances, as warmly attested by Hanna and Baker, both before and since his return, and the fortitude and energy exhibited in his escape, merit the highest praise, and I hope will receive the notice of the War Department; and I also most respectfully recommend to its favorable consideration Privates John Hanna, of Company K, and William Baker, of Company G, Second Artillery, for their distinguished bravery.

I am, sir, very respectfully, your obedient servant,

HARVEY BROWN,
Brevet Colonel, Commanding.

Lieut. VINCENT, *A. A. A. G.*

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 2, 1855.

A true copy.

T. M. VINCENT,
First Lieutenant, Second Artillery, Acting Assistant Adjutant-General.

EXHIBIT NO. 4.

Governor's message.

EXECUTIVE DEPARTMENT,
Tallahassee, November 24, 1856.

Fellow-citizens of the senate and house of representatives:

* * * * * * *

INDIAN HOSTILITIES.

On the 12th day of January, 1853, the general assembly passed an act entitled "An act to provide for the final removal of the Indians from this State, and for other purposes."

The first section of that act makes it unlawful for an Indian to remain in this State.

The second section required the governor to raise a brigade, composed of one regiment of mounted volunteers and one regiment of infantry, of not more than one thousand men each.

The fifth section provides that the governor shall tender said brigade to the Federal Government, for the removal of the Indians.

The sixth section makes it the duty of the governor, in the event of the Federal Government's refusing to accept the services of said brigade, forthwith "to secure the frontier settlers" and employ the brigade in capturing the Indians, etc.

The seventh section appropriates $500,000 for the expenses of the war, and authorizes the governor to borrow the money at 6 per cent interest.

The ninth section authorizes the comptroller to audit the accounts and issue warrants upon the treasury for their payment.

The eleventh section provides that when the Indians commence actual hostilities the governor shall carry this act into execution.

In obedience to the requirement of this act, I attempted on my inauguration to raise the brigade. The mounted regiment was readily procured and organized, but the infantry regiment I found it impracticable to recruit. In December last the contingency occurred upon the happening of which the executive was required to carry the law into execution. The Indians commenced actual hostilities by attacking a detachment of United States troops commanded by Lieut. Hartsuff. This attack was entirely unexpected, and found our frontier population in an unprotected condition. The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens naturally and properly called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained many men from the counties of Manatee, Hillsboro, and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible, the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive more than five companies, three of mounted men and two of infantry—the latter of which I could only procure to the extent of one detachment.

The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements. I therefore determined to retain in the service of the State the companies of Capts. F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abner Johnson, and afterwards added a detachment under Lieut. John Addison, making, rank and file, about 400 men. These troops have been employed partly on the frontier and partly in the Indian country. Detachments have on three several occasions overtaken and fought the enemy, once recovering a large amount of property (of which they had robbed one of our best citizens), and killing, as was supposed, from 4 to 7 Indians. This was effected, under Lieut. John Addison, without loss. The other two engagements were by small detachments from the company of Capts. F. M. Durrance, L. G. Lesley, and W. B. Hooker, and were the most gallantly contested actions that have probably ever occurred in Florida. The Indians, having the advantage in point of numbers, appeared determined to destroy their pursuers, and such was the desperation with which they fought that one contest was decided by a resort to pocket-knives, in which an Indian was killed by having his throat cut. In these three engagements it is supposed that over 20 Indians were killed, and a number wounded; and so thoroughly were they chastised that, although more than five months have elapsed, they have not, as I have been advised, ventured an engagement or even an attack upon the frontiers. In these last two engagements we lost in killed Lieuts. Carleton and Widdon, and William Parker, some of the most gallant spirits of our little army; and, while all did their duty nobly, and are entitled to the gratitude of the whole State, the memories of those who perished should be embalmed in every heart. For a more detailed account of these gallant actions, I respectfully refer to the report of Capt. F. M. Durrance, herewith communicated.

When the Indian outbreak occurred, the money markets of the world were in such a condition as to forbid even the hope of negotiating a dollar upon the terms to which I was limited by the act of January 12, 1853. The impossibility of procuring subsistence and forage, except to a limited extent, forbade my calling into the service of the State such a force as would have protected the frontier and promptly captured or humbled the enemy. Under these circumstances I was compelled to limit the force to four companies and a detachment. These I provided for temporarily by using the contingent fund, and borrowing the small balance remaining uninvested of the school and seminary funds. Having made this temporary provision, I proceeded to Washington City, with the hope of inducing the War Department to accept the services of a brigade of volunteers, or, at all events, receive the companies retained by the State. I did not, however, succeed in either, but received assurance of the de-

termination of the Government to remove the Indians by force, and to use such an amount of force for that purpose as could be profitably employed. The correspondence upon this point with the War Department is herewith communicated for the information of the general assembly.

That the Secretary of War did honestly determine to remove the Indians I entertain no doubt, but that he made a mistake in reference to the kind and extent of force necessary for that purpose is now manifest. The purpose of removal is, however, prominently preserved, and recently a general officer of great skill and success in such warfare has been ordered to the command, with increased forces. To what extent he may estimate for a mounted volunteer force I am not yet advised. That he will find the war interminable without a mounted force, there is too much reason to fear. I have, however, great confidence in his capacity for such a service.

Having failed to effect what I desired at Washington, and having determined to continue in the service of the State such a mounted force as was deemed sufficient to give reasonable protection to the frontier, I found myself compelled to negotiate for money on terms not authorized by the statute. I negotiated a loan in the city of Charleston for $30,000, at an interest of 7 per cent per annum, to be returned at some early day after the adjournment of the present session of the general assembly. This fund has been reserved for the purchase of subsistence and forage, and for the payment of incidental expenses, and will at an early day be exhausted. I respectfully invite the general assembly to appoint a committee to examine and report upon this loan, and the disbursements of the funds made by my special orders.

During my absence on my visit to Washington City, a very great excitement occurred in Levy County, which spread rapidly into the counties of Madison, Columbia, and Alachua. The report of Indian trails in great number, with an attack upon a citizen and another upon a fort or stockade, with a threatened depopulation of the section of country, induced me to send Capt. A. J. T. Wright, with a select detachment, to examine carefully and report the facts. His report is herewith communicated. It will be seen that his examination confirmed the impression, so generally prevailing, that there were Indians in considerable number in that section, and called for two mounted companies to capture or expel them. The balance of his own company, with the company of Capt. Stewart, were promptly ordered to join him. On the 13th of June the command of that special service was assigned to Col. M. Whit Smith, with authority to recruit four infantry companies to aid in scouring thoroughly the Gulf and Suwannee hammocks, and other suspected places. This assignment of command was connected with the duties of recruiting officer, quartermaster, and commissary, to be covered by a major's pay, as will be seen by my letter of instructions of that date, a copy of which is herewith communicated.

The infantry companies ordered to be recruited were deemed necessary for temporary service in the Gulf hammock and adjacent places, and were then desired for Col. Munroe, commanding United States forces in Florida, to aid in filling a requisition then daily expected, of which advices from the War Department had been received. A portion of these were recruited, but it was found difficult to raise full companies, and as the commanding officer required such, they were discharged at the completion of the special service for which they were enlisted. The whole special service terminated in September, and the companies were generally discharged on the 30th day of that month.

At the expiration of six months from the respective dates of mustering the three mounted companies and one infantry detachment of volunteers into the service of the United States, and the four companies and one detachment of mounted volunteers into the service of the State, they were all regularly mustered out. The second requisition from Col. Munroe for three companies, to supply the places of those mustered out, was filled by companies organized and commanded by Capts. S. L. Sparkman, L. G. Lesley, and Robert Bullock. The companies mustered out of the service of the State were promptly supplied by others commanded by Capts. F. M. Durrance, W. H. Kendrick, Abner Johnson, and E. T. Kendrick. The detachment commanded by Lieut. Addison was ordered to be substituted by a full company, the organization of which has not yet been reported to me.

The great distance at which I was located from the seat of war, the necessity for economizing the limited means at my disposal, and the difficulty of communicating my instructions, with the mails virtually suspended for a portion of the time, made it, in my judgment, proper to appoint a special and confidential agent, near the seat of war, to discharge all such duties, whether civil or military, as might be devolved upon him by executive authority. I therefore, on the 4th of February last, appointed as such agent Gen. Jesse Carter, of Tampa, who has since that date been laboriously engaged in duties connected with the present Indian disturbances. His reports, letters, and abstracts are on file, copies of which will be furnished to the general assembly, if desired. A copy of the letter of his appointment and such general instructions as have been issued to him in relation to the service are herewith communicated. He is now, in company with a portion of the State troops, on an extended expedition into

the Indian country, a report of which and its results I hope to be able to communicate to the general assembly at an early day.

Should the United States call for no additional mounted volunteer force for the present campaign, and make no other provision for cavalry, it will, in my judgment, be unsafe to discharge any part of the mounted force now employed by the State.

It will be seen by a correspondence, herewith communicated, between the Post-Office and War Departments, and one of our Senators, that the provision for mounted force on the part of the Government was so limited that the mails between Palatka and Tampa were virtually suspended for the want of protection. On being advised of this state of things I ordered General Carter, the State's special agent, to confer with the colonel in command on this subject, and if he was unable to give the necessary protection, to furnish it from the forces in the service of the State. My order in reference to the matter is herewith communicated.

No provision having been made by the Government of the United States to pay or subsist our State forces, it became the imperative duty of the State government to do so. The amount, which will be due on the 20th of February next, should no change in our present force be made, will be (including pay, subsistence, forage, transportation, incidental expenses, and the loan negotiated in Charleston), according to my estimate, about $225,000, and for each six months' service beyond that period, should the necessity unfortunately continue to exist, a provision of $110,000 should be made.

With these explanations and suggestions, this embarrassing question is submitted to the general assembly, with the assurance that I shall cheerfully and heartily coöperate with you in any proper measure which your wisdom may suggest for protecting the credit of the State, discharging her obligations, and removing the Indians from within her borders.

* * * * * * *

I am your fellow-citizen,

JAMES E. BROOME.

EXHIBIT No. 5.

[Washington and New Orleans Telegraph Line Office, Washington, corner Seventh and D streets. Dated Tampa, Fla., 23d December, via Savana, m. Received, Washington, 2d instant, January, o'clock 6:35 min. p. m.]

To Hon. JEFFERSON DAVIS,
Secretary of War:

The Seminoles attacked the advanced party of troops on the Big Cypress on the morning of 20th. Lieut. Hartsuff and five men killed or missing. A peaceful removal is impossible.

J. C. CASEY.

EXHIBIT No. 6.

WAR DEPARTMENT,
Washington, January 3, 1855

SIR: Your note by telegraph, of the 23d ultimo, was received yesterday. The occurrence of actual hostilities, commenced by the Seminole Indians, suspends all the instructions heretofore given you with a view to effect the peaceable removal of those Indians. It is presumed that Col. Monroe has dispached by mail to this Department a report in relation to Indian affairs in Florida, and on its receipt further instructions will be given for your guidance.

Very respectfully, your obedient servant,

JEFFERSON DAVIS,
Secretary of War.

Capt. JOHN C. CASEY,
Tampa Bay, Florida.

EXHIBIT No. 7.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 20, 1856.

SIR: By virtue of authority from the War Department, dated Adjutant-General's Office, Washington, January 7, 1856, and received by me on the 19th instant (of which a copy is herewith), I have now the honor to call on your excellency for the follow-

ing volunteer force, to provide for the protection of the frontier and to coöperate with the United States troops in enforcing the removal of the Indians remaining in the State:

One company of mounted volunteers, to be mustered into service, say, in the neighborhood of Fort Gatlin.

One company of mounted volunteers, to be mustered into service, say, in the neighborhood of Heecheepoksasa, and one company of mounted volunteers, to be mustered into service, say, in the neighborhood of Fort Meade.

Two companies of foot, to be composed exclusively of good woodsmen, familiar with the habits of Indians, to be employed as hunters and trailers in the swamps and morasses, where horsemen can not go, and where alone Indians are to be found and overcome.

As each mounted company will act separately, and the foot companies are to be associated with the regular troops in their operations, no field or staff officers will be required or received with them.

"Companies serving in the peninsula of Florida and at Key West are authorized to be carried up to the maximum legal standard of seventy-four privates." (See Special Order No. 70, dated War Department, Adjutant-General's Office, Washington, April 18, 1855, copy herewith, and second section of act of June 17, 1850, entitled "An act to increase the rank and file of the Army," etc.) The volunteer companies now called for will therefore each be composed as follows, viz: One captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and seventy-four privates.

Gen. Jesse Carter, of this county, has consented to proceed immediately to the capital for the purpose of conferring with your excellency on the details of this business, as my duties here will not allow me to leave.

Most respectfully, your obedient servant,

JOHN MUNROE,
Maj., 2d Regt. Arty., Bvt. Col., Comdg. Troops in Peninsula of Florida.

To his excellency JAMES E. BROOME,
Governor of Florida, Tallahassee.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 23, 1856.

A true copy.

J M. VINCENT,
First Lieutenant, Second Artillery, Actg. Asst. Adjt. Gen.

EXHIBIT No. 8.

HEADQUARTERS TROOPS IN FLORIDA,
Fort Brooke, January 23, 1856.

COLONEL: I have the honor to transmit you herewith a copy of a requisition made by me on the governor of Florida, based on the instructions of the Secretary of War, as communicated in your letter of the 7th instant. Doubting whether foot troops could be readily raised, if at all, of a suitable character, my call has been for the maximum number of mounted men authorized, believing it to be the only course which would keep the mass of the frontier settlers at their homes, which they would otherwise abandon, thereby subjecting themselves to much suffering.

From the absolute want of officers under my control, it will be necessary that instructions be given from the War Department for an officer to repair to the St. Johns River, say in the vicinity of Fort Gatlin, to muster into service the company which it is proposed should rendezvous there, and that the same, or some other competent officer, be designated to perform the duties of quartermaster and commissary on that side the peninsula, and directed to make requisitions for transportation, forage, subsistence, etc., direct and without loss of time. The length of time required for communication from this post with troops serving in that vicinity will prevent my giving direct the timely instructions requisite for the prompt performance of the necessary duties. In addition a staff or other officer will be required to muster in the volunteers on this side the peninsula, and exercise a further supervision over their duties, accountability, and supplies; also, an officer to act in the quartermaster's and subsistence department.

During a recent visit to Fort Myers (consulting with Col. Brown), I directed a picket work of a very temporary character to be established at Fort Simon Drum, this to serve as a depot for ulterior operations, Fort Deynaud being the principal depot. Two companies to be detached for the erection of this work and for scouting

ugh the southern and southeasterly portion of the Big Cypress. Forts Centre Thompson are reoccupied; boats are kept at the former place for service on Lake chobee and scouting parties constantly in motion from both posts.

here has been a good deal of sickness among the troops during the past summer l autumn, and although not of a very aggravated character, has influenced unfa-ably the physical condition of the whole command. At Fort Deynaud, since the urn of the troops to that post, about the middle of December, the sick list has been y heavy, as reported by the commanding officer and surgeon of the post. From amount of rain which has fallen lately there is a large quantity of surface water er the entire country where this time last winter it was completely dry.

I am, very respectfully, your obedient servant,

JOHN MUNROE,
Major 2d Regt. Art., Bvt. Col., Commanding.

Col. S. COOPER,
Adjutant-General, Washington, D.C.

EXHIBIT No. 9.

HEADQUARTERS DEPARTMENT OF FLORIDA,
Fort Brooke, January 12, 1856.

SIR: I received your letter of the 8th ultimo on the 31st instant, on my return from visit to Fort Myers. General Carter has, I presume, kept you daily advised of the orrect operations of the troops. With the view you express in relation to active op-rations being continued during the summer months I concur, but there are occasion-lly practical difficulties which interpose to check our movements. The character of he country as you approach the Big Cypress from the north becomes so saturated with water and boggy that nothing can be done in that direction during the rainy eason. It is proposed to keep up during the summer months expeditions by boats enetrating from the coast to the interior. The number of Indians who have shown hemselves in this section of the country since the outbreak, although not numerous, ave presented themselves at so many different points as to keep the entire frontier a state of alarm, as you are fully informed. Owing to a sparse population and the tensive cover the country offers, these Indians have succeeded in avoiding all our rties except in a single instance, although much perseverance has been shown and tigue endured in scouting after them.

The State Volunteers, under Capts. Kendrick and Johnson and Lieut. Kendrick, rformed their thirty days' service south of the Caloosahatchee and in the Ever-ades with much credit to themselves, and they have been spoken of by the United ates officers with whom they were associated on their tour in the most favorable nner.

The company of Capt. Jernigan has, I am sorry to say, been the subject of much ious complaint from the citizens in the vicinity of his posts, particularly the detach-nt stationed at "Houstouns," near Enterprise. They charge, and I have no doubt th truth, that the public duties of the company, particularly of that part of it, ve been grossly neglected, and the individual conduct of many of the men as being tremely improper. I transmit herewith a copy of my order in reference to this sub-t, which will explain my action in the matter. My letter to you of the 17th ultimo, king for additional foot volunteers, states the number and description of troops hich has been advisable to call for. Gen. Carter left here on the 9th instant, Capt. arkman in company, having with them detachments of State and United States lunteers, and proposing to make a scout of ten or twelve days in Hernando County, here Indians have recently been seen. I had prepared a copy of a map of South orida, which is accompanied by a memorandum of the positions of troops, to be nsmitted to you through Gen. Jesse Carter. It adds somewhat to our knowledge the topography of that section.

I am, sir, very respectfully, your obedient servant,

JOHN MUNROE,
Major Second Artillery and Brevet Colonel, Commanding.

His excellency JAMES E. BROOME,
Governor of Florida.

EXHIBIT No. 10.

Florida troops alleged to have been employed in State service in 1855–'56, with organization record as shown by rolls filed in office of the Adjutant-General of the Army.

Voucher.	Company.	Period of State service shown by rolls filed in A. G. O. prior to year 1861.		Period of time paid for by State on claims presented.		Remarks.
		When enrolled or mustered in.	When mustered out.	From—	To—	
1	Wm. B. Hooker	Jan. 3,'56	Feb. 21,'56	Jan 3,'56	Feb. 21,'55	Mustered into United States service Feb. 21, 1856. Date of enrollment on United States roll is Feb. 18, 1856.
2	Frank M. Durrance	Dec. 29,'55	Aug. 22,'56	Feb. 21,'56	Aug. 22,'56	Mustered into United States service Dec. 22, 1856.
3	Frank M. Durrance	Aug. 22,'56	Dec. 21,'56	Aug. 22,'56	Dec. 21,'56	Do.
4	Wm. H. Kendrick	Jan. 1,'56	Aug. 28,'56	Feb. 26,'56	Aug. 28,'56	Mustered into United States service Dec. 6, 1856.
5	Wm. H. Kendrick	Aug. 28,'56	Dec. 6,'56	Aug. 28,'56	Dec. 6,'56	Do.
6	Abner D. Johnston	Dec. 31,'55	Dec. 20,'56	Feb. 26,'56	Sept. 2,'56	Mustered into United States service Dec. 20, 1856.
7	Abner D. Johnston	Dec. 31,'55	Dec. 20,'56	Sept. 2,'56	Dec. 20,'56	Do.
8	Leroy G. Lesley	Jan. 3,'56	Aug. 20,'56	Mar. 12,'56	Aug. 20,'56	Mustered into United States service Aug. 20, 1856.
9	A. J. T. Wright	Apr. 28,'56	May 17,'56	Apr. 28,'56	May 17,'56	Not mustered into United States service. * With Whitsmith's command.
10	A. J. T. Wright	May 18,'56	Sept. 30,'56	May 18,'56	Aug. 1,'56	Do.
11	John McNeill	May 15,'56	July 12,'56	May 15,'56	Aug. 12,'56	Mustered into United States service Dec. 26, 1856.
12	Asa A. Stewart	May 18,'56	Sept. 30,'56	May 18,'56	Sept. 30,'66	With Whitsmith's command. Was mustered into United States service July 27, 1857.
13	Robert Youngblood	May 18,'56	Sept. 30,'56	May 18,'56	Sept. 30,'56	(*)
14	Enoch Daniel	May 30,'56	July 20,'56	May 30,'56	July 20,'56	With Whitsmith's command.
15	W. B. Hardee	June 1,'56	June 29,'56	June 1,'56	June 29,'56	* Called Watson's detachment.
16	Alex. Bell	June 24,'56	Sept. 30,'56	June 24,'56	Sept. 30,'56	* With Whitsmith's command.
17	Thos. Hughy	Aug. 18,'56	Sept. 30,'56	Aug. 18,'56	Sept. 30,'56	Do.
18	Edw'd T. Kendrick	Aug. 23,'56	Jan. 14,'56	Oct. 23,'56	Jan. 14,'57	Mustered into United States service Jan. 14, 1857.
19	John Addison	Jan. 16,'56	Oct. 7,'56	Apr. 8,'56	Oct. 7,'56	(*)
20	John Parker	Oct. 7,'56	Dec. 17,'56	Oct. 7,'56	Dec. 15,'56	(*)
21	John McNeill	Oct. 13,'56	Dec. 25,'56	Not stated on abstract.		Mustered into United States service Dec. 21, 1856.
22	S. L. Sparkman	Dec. 31,'55	Feb. 18,'56	do		Mustered into United service Feb. 18, 1856.
23	R. B. Sullivan	Sept. 6,'56	Sept. 30,'56	do		(*)
24	Hansford D. Dyches	No roll	No roll	do		(*)
25	Aaron Jernigan	No roll	No roll	do		Was in United States service by muster from Mch. 10 to Sept. 10, 1856.
26	James O. Devall	No roll	No roll	do		(*)
26½	Field and staff	Feb. 1,'56	Feb. 22,'56	do		See copies of (two) staff rolls, herewith.

EXHIBIT No. 11.

WAR DEPARTMENT,
Washington City, March 24, 1882.

SIR: I have the honor to request to be furnished with a transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing agent of the State of Florida, under date of November 30, 1859, exhibiting expenditures made in settlement of militia claims for services in the year 1856, and also transcripts, under

seal of the State, of any other financial exhibits to be found on the records of the State showing the amounts expended by the State for expenses incurred in suppressing Indian hostilities in Florida between the 1st day of December, 1855, and the 1st day of January, 1860.

This evidence is required to enable this Department to properly comply with the provisions of the joint resolution approved March 3, 1881, directing an investigation as to the amount and character of the disbursements referred to.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. WILLIAM D. BLOXHAM,
Governor of the State of Florida, Tallahassee, Fla.

EXHIBIT No. 12.

EXECUTIVE OFFICE,
Tallahassee, Fla., April 12, 1882.

SIR: I have the honor to acknowledge the receipt of your communication of the 24th ultimo., requesting to be furnished with a "transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing agent of the State of Florida, under date of November 30, 1859, exhibiting expenditures made in settlement of militia claims for service in the year 1856, and also transcripts, under seal of the State, of any other financial exhibits to be found in the records of the State showing the amounts expended by the State for expenses incurred in suppressing Indian hostilities in Florida between the 1st day of December, 1855, and the 1st day of January, 1860," and in compliance therewith I herewith transmit papers marked respectively A and B, duly authenticated under seal of State.

I am informed by the agent of the State that the vouchers in most part sustaining the account of J. W. Pearson (marked A) have been filed in your Department, and it is much to be regretted that all of these vouchers, as well as the vouchers upon which the payments by the Treasury (Statement B) were made, can not be furnished. In probable explanation of this it may not be improper for me to say that, after the late civil war, the archives and official records of the State were removed from their original places of deposit and stored in an unused and damp vault, where many of them were much mutilated and defaced, and some entirely lost.

The payments of these expenses of Indian hostilities by the State were made in good faith, and upon full recognition and approval of the State authorities, and I may add with borrowed capital, upon which the State is now at this date paying interest.

I will also add that no portion of these disbursements has ever been reimbursed by United States.

Very respectfully,

W. D. BLOXHAM,
Governor of Florida.

Hon. ROBERT T. LINCOLN,
Secretary of War, Washington, D. C.

A.

EXHIBIT No. 13.

Message from the governor on the subject of payment of volunteers, State loan, etc.

EXECUTIVE DEPARTMENT,
Tallahasse, December 9, 1859.

Gentlemen of the Senate and House of Representatives:

I submit herewith the official report of Col. John W. Pearson, who was appointed by me disbursing agent to discharge the debts and liabilities of the State incurred in suppressing Indian hostilities in the year 1856. I negotiated a loan for the State, through the agency of Col. Pearson, in the cities of Charleston and Savannah, for $241,300, payable in twelve months, which will be due in April, 1860. The State realized in cash from said loan $222,015, and has disbursed $193,331, leaving a cash balance of $28,684, as per report of the disbursing agent, to which your attention is respectfully invited. The abstracts and vouchers for the unpaid claims referred to in

the report of the agent have been placed in his hands with instructions to pay the same. In this connection I would call your attention to the fact that no claims for services rendered prior to the mustering in of the several companies have been paid. In several instances companies were organized on the first outbreak of the Indians, without awaiting orders, and promptly marched to the defense of the unprotected citizens, who were being massacreed by the savages, and actually performed active and arduous service for which they have not been paid. This service was recognized and approved by the executive, but the agent has not felt authorized to pay from the day of enrollment, but from the date of mustering in, in accordance with the Army Regulations of the United States. I would respectfully recommend that the several companies of State troops be paid from the date of enrollment, upon satisfactory proof being made that they did actually perform active service in suppressing Indian hostilities. The act "to provide for the payment of the debts of the State," approved December 27, 1856, authorized the issuance of $500,000 of bonds in the name and behalf of the State, for the payment of the debts of the State, or so many thereof as may be necessary, conditioned, however, that the said bonds should be sold at their par value or hypothecated for the payment of a loan to the State, to be negotiated on the most practicable terms. It was questioned by capitalists whether the power to hypothecate carried with it the right to sell the bonds upon the failure of the State to pay the loan at maturity, and I was unable either to sell the bonds at their par value or to negotiate a loan upon them by hypothecation. This fact was communicated by me to the legislature, and the difficulty removed by "An act in addition to an act to provide for the payments of the debts of the State," approved January 15, 1859, empowering the governor to stipulate for the sale of the bonds hypothecated, or so many thereof as may be found necessary, at their market value, to meet the debt at maturity in the event the same shall not be otherwise provided for.

It has always been claimed, and I believe never denied, that the duty of suppressing Indian hostilities devolved upon the general Government, and that Government had long ago endeavored to effect their removal, and assumed the right to permit them to remain in the State, and withdrew the protection which the people had a right to expect. On the breaking out of hostilities the people on the frontier, for want of the protection which it was the duty of the Federal Government to give, found it necessary to embody themselves, and perform the services which the exigencies of the times imposed upon them, and in doing so they had to abandon their usual occupations and suffer all the privations incident to an exposed frontier life. Under these circumstances the State felt it due to her own citizens to provide for their payment, relying on the justice of the General Government to refund to her the amount which she felt it her duty to pay.

The justice of such a demand can not rightfully be disputed, and it is hoped will at once be recognized. I therefore recommend that the general assembly will, either by memorial or resolutions, or such other mode as they deem best, request of Congress the passing of a law refunding to the State the amount she has expended.

The loan made by the State to enable her to pay the just claims of her citizens falls due in April next, for the payment of which three hundred and forty-six thousand dollars of the bonds of the State ($346,000) have been hypothecated, by virtue of authority in me vested by the above-recited acts, and as the Federal Government may fail to refund in time the amount thus advanced by the State, I would recommend that the governor be authorized to sell, at their fair market value, so many of the bonds as may be found necessary to pay the loan at maturity, rather than permit them to be thrown upon the market at the option of the parties holding them, in the event of the payment not being otherwise provided for.

Very respectfully,

M. S. PERRY.

TALLAHASSEE, FLA., *November* 30, 1859.

DEAR SIR: I herewith transmit to you a statement, together with my account current with the State of Florida as disbursing agent in the settlement of militia claims for services rendered in the year 1856:

I received from the State in cash		$222,015
I have paid claims to the amount of	$193,331	
Cash balance on hand ready to pay over	28,684	
		222,015

I refer to account current with vouchers for proof. The pay rolls show the amount of nearly $1,800 which is yet unpaid, owing to the fact that the parties performing the service for which it is due have deceased, and no representatives have qualified as executors or administrators to receipt for the same. The abstracts and vouchers

of Captains Hooker, E. T. Kendrick, Addison, and Parker's companies, for transportation, etc., have not been placed in my hands for disbursement; consequently they are not paid. I have no means of knowing the amount, as I have not been able to see abstracts and vouchers.

Very respectfully, your obedient servant,

J. W. PEARSON,
Disbursing Agent.

His Excellency Governor PERRY.

J. W. Pearson in account with State of Florida.

DR.

To cash received from Bank of Charleston	$92,000.00
To cash received from People's Bank	46,000.00
To cash received from the People's Bank	12,880.00
To cash received from S. W. R. R. Bank	46,000.00
To cash received from Merchants and Planters' Bank	25,135.00
	222,015.00
To balance	29,029.84
Less additional allowance, account omitted	345.00
	28,684.84

CR.

By cash paid A. J. T. Wright's company	$9,667.71
By cash paid Asa Stewart's company	11,510.89
By cash paid A. Bell's company	3,526.62
By cash paid W. B. Hardee's company	180.14
By cash paid Robert Youngblood's company	5,804.18
By cash paid E. Daniel's company	1,999.35
By cash paid A. D. Johnson's company	16,739.85
By cash paid A. D. Johnston's company	8,893.93
By cash paid W. H. Kendick's company	16,277.99
By cash paid W. H. Kendrick's company	8,966.50
By cash paid Ed. Kendrick's company	3,243.36
By cash paid L. G. Lesley's company	14,108.34
By cash paid W. B. Hooker's company	4,809.57
By cash paid John Addison's company	10,232.41
By cash paid F. M. Durrance's company	15,794.93
By cash paid F. M. Durrance's company	9,693.00
By cash paid John McNeill's company	2,059.03
By cash paid John McNeill's company	3,303.06
By cash paid Simeon Sparkman's company	2,967.31
By cash paid Thos. Hughey's company	803.91
By cash paid R. B. Sullivant's company	809.15
By cash paid A. J. T. Wright's company	574.68
By cash paid John Parker's company	4,556.69
By cash paid staff officers, assistant surgeons, etc	12,341.49
By cash paid quartermaster men	710.33
By cash paid transportation, etc	17,546.95
By cash commissions for negotiating and disbursing	5,550.37
By cash on hand due State of Florida	29,029.84
	222,015.00

TALLAHASSEE, *December* 2, 1859.

I have compared with this account the abstract of disbursements on account of transportation, etc., and find that the paymaster is entitled to $345 more than is embraced in this account.

I also find the account to correspond with abstracts of disbursements to staff offi-

ers, etc., and persons employed in the quartermaster's department. The proper amounts are as follows:

Transportation, etc	$17,891.95
Staff officers, etc	12,341.49
Quartermaster men	710.33

HUGH ARCHER,
Quartermaster-General.

I have compared the pay rolls with the above (except $12,341.49, $710.43, and $17,546.95) and find them to correspond.

DECEMBER 2, 1859.

C. H. AUSTIN, *Paymaster.*

STATE OF FLORIDA,
Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing (embraced in pages 1 to 7, inclusive) is a true and correct copy of and transcript from the original manuscript record of the proceedings of the senate of the State of Florida as recorded on pages 519, 520, 521, and 522 of "Record Book D, senate journal of 1856 to 1861," and as the same appears on pages 102, 103, 104, and 105 of the printed official journals of the senate.

Given under my hand and the great seal of the State of Florida this 12th day of April, A. D. 1882, at Tallahassee, the capital.

[SEAL.]

JNO. L. CRAWFORD,
Secretary of State.

B.

Treasurer's report.

TREASURER'S OFFICE,
Tallahassee, November 1, 1856.

To the general assembly of the State of Florida:

GENTLEMEN: In accordance with the requisitions of the law relative to the duties of this office, I have the honor herewith to submit my report of the transactions at the treasury for the period of from November 1, 1855, to October 31, 1856; also reports of the school and seminary funds for the same period.

Very respectfully, your obedient servant,

C. H. AUSTIN, *Treasurer.*

[Extract.]

The treasurer in account with the State of Florida.

1856. CR.

November 1. By amount of comptroller's warrants paid under the following heads of appropriations:

* * * * * *

Indian hostilities $2,688.28

Treasurer's report.

TREASURER'S REPORT,
Tallahassee, November 1, 1858.

To his Excellency MADISON S. PERRY,
Governor of Florida:

SIR: I have the honor to present herewith, and through you to the general assembly, reports exhibiting the transactions at this office from the period of November 1, 1856, to October 31, 1857, and from November 1, 1857, to October 31, 1858; also reports for the same period upon the school fund and seminary fund.

Very respectfully,

C. H. AUSTIN, *Treasurer.*

[Extract.]

The treasurer in account with the State of Florida.

1857.
November 1. By amount of comptroller's warrants paid and other disbursements, viz:

* * * * * * *

Subsistence and forage claims	$40,830.17
Indian war of 1856	25,865.20
	66,695.37

[Extract.]

The treasurer in account with the State of Florida.

1858.
November 1. By amount of comptroller's warrants paid and other disbursements, viz:

* * * * * * *

Subsistence and forage:

H. H. Hooker's account, subsistence and forage	$2,440.64
C. M. Castello, subsistence and forage	172.00
Jesse Carter, special agent, services	4,920.82
H. Archer, jr., quartermaster	1,139.00
	8,672.46

STATE OF FLORIDA,
Office of the Secretary of State:

I, John L. Crawford, secretary of state, do hereby certify that the foregoing are true and correct copies of the official reports of the treasurer of the State of Florida for the years respectively from November 1, 1855, to October 31, 1856; from November 1, 1856, to October 31, 1857; and from November 1, 1857, to October 31, 1858; and the extracts given from the financial statement in said reports are true and correct extracts, and are corroborated by original entries in the books of record and accounts now on file in the office of the treasurer of the State.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this 12th day of April, A. D. 1882.

[SEAL.] JNO. L. CRAWFORD,
Secretary of State.

EXHIBIT No. 15.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying abstract (A) with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show in detail the amount of each payment properly made under the laws of the United States governing organization and rates of pay and allowances during the periods charged for, and also the payments as in a statement of differences which should not be accepted under the terms of the joint resolution above referred to as falling within the rules of admission, and to indicate generally the character of the proofs submitted in the premises.

The joint resolution to which reference is made will be found on page 520, volume 21 of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the PAYMASTER-GENERAL.

EXHIBIT No. 16.

Report of the Paymaster-General on the Claim of the State of Florida under joint resolution dated March 3, 1881.

The vouchers referred to this office for examination and report are numbered 1 to 20, inclusive, 23 and 26¼, Abstract A.

Herewith submitted are an extract and statement of differences numbered to correspond with the vouchers to which they respectively pertain, showing in detail the amounts claimed, allowed, suspended, and disallowed, with reasons for suspension or disallowance.

Where short payments occur, the amount short paid is not stated, as the State can not claim credit for an amount greater than that paid.

Where short and overpayments occur in the same case, the short payment has been allowed to offset, so far as it would, the overpayments.

On vouchers Nos. 1 to 18, inclusive, all suspensions, unless otherwise indicated, are on account of the absence of powers of attorney and letters of administration authorizing parties other than the payees to receipt the rolls.

With voucher No. 19 there is a muster roll, but no pay roll.

Pay and allowances have been computed for each man named, with the exception of two, who received commissions.

The estimated amount exceeds the amount claimed, but the whole is suspended, as it can not be determined who were and who were not paid by the State.

Voucher No. 20 has a muster roll but no pay roll. The amount claimed exceeds the amount estimated. The whole is suspended for same reason as voucher No. 19.

Voucher No. 23 same as No. 19.

Voucher No. 26¼.

In the statement of differences the cases marked * are borne on the F. & S. muster roll, but there are no vouchers or other evidence of payment. Pay and allowances are estimated for the time stated, but the amount is suspended.

In the cases marked † the names are *not* borne on the muster roll, but vouchers for the amounts claimed to have been paid are filed, though not certified by the State agent, nor authenticated in any manner. These amounts are suspended, no evidence connecting them with the service.

In cases marked ‡ the names are borne on the muster roll, and vouchers are filed for the amounts claimed.

These cases are allowed, except as to amounts overcharged.

The total amount claimed on this voucher, as per abstract, largely exceeds the amount of ascertained and estimated pay. The excess is disallowed.

Vouchers Nos. 10, 12, 13, 14, 16, and 17.

The muster rolls are not certified by the State agent.

Vouchers Nos. 6 and 15 have no muster rolls, and the pay rolls are not certified by the State agent.

The payments, except where suspended on account of powers of attorney, etc., not being filed, though entered in column of "allowed," should not be *finally* allowed until there be some evidence filed of service rendered.

Pay and allowances have been computed at rates authorized by law and regulations in force at the time the service is alleged to have been rendered.

WM. B. ROCHESTER,
Paymaster-General, U. S. Army.

T. M. E.

PAYMASTER-GENERAL'S OFFICE, *April* 20, 1882.

EXHIBIT No. 17.

Abstract of differences, Abstract A.

Company.	Voucher.	Amount claimed.	Amount allowed.	Amount suspended.	Amount disallowed.
W. B. Hooker	1	$4,809.57	$4,249.14	$307.87	$252.56
F. M. Durrance	2	15,794.91	8,068.91	6,916.81	789.19
F. M. Durrance	3	9,693.00	5,969.68	3,598.24	125.08
William H. Kendrick	4	16,277.99	13,923.26	2,235.20	119.53
William H. Kendrick	5	8,906.50	7,260.77	1,531.34	74.39
A. D. Johnson	6	16,739.85	12,821.30	3,638.36	280.19
A. D. Johnson	7	8,833.93	6,222.27	2,084.19	127.47
L. G. Lealey	8	14,108.34	12,851.47	888.83	368.04
A. J. T. Wright	9	574.68	454.31	90.18	30.19
A. J. T. Wright	10	9,667.71	7,535.15	1,926.36	206.20
John McNeill	11	2,059.45	1,836.46	167.59	55.40
Asa A. Stewart	12	11,510.89	7,595.38	3,896.93	18.58
Robert Youngblood	13	5,804.18	4,026.54	1,671.51	106.13
E. Daniel	14	1,994.82	1,172.66	809.19	12.97
W. B. Hardee	15	180.14	164.85	14.19	1.10
A. Bells	16	3,526.62	1,971.08	1,440.53	115.01
T. Hughey	17	784.40	551.76	229.26	3.38
E. Kendrick	18	3,243.36	1,270.42	1,928.74	44.20
John Addison	19	10,232.43	.....	10,232.43	.....
John Parker	20	4,556.59	.....	4,023.98	532.61
R. R. Sullivant	23	809.15	.....	809.15	.....
Field and staff	26½	12,341.49	1,265.08	2,361.23	8,715.18
		162,450.00	99,620.49	50,852.11	11,977.40

EXHIBIT No. 18.

Statement of differences—Voucher No. 1, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William B. Hooker	Captain	$241.09	$215.40		$25.69	Entitled only to $40 per month pay proper, $10 per month for command of company, and $2.50 per month servant's clothing.
2	John Parker	Lieutenant	224.42	183.40		41.02	Entitled only to $30 per month pay proper and $2.50 per month servant's clothing.
3	Joseph M. Pearce	do	216.09		$175.40	40.69	Entitled only to $25 per month pay proper and $2.50 per month servant's clothing. Balance suspended; no evidence of authority of administrator.
4	James D. Greene	Sergeant	59.50	57.60		1.90	
5	Francis A. Ivey	do	54.50	52.76		1.74	
6	George W. Hendry	do	54.50	52.76		1.74	
7	William Hall	do	54.50	52.76		1.74	
8	John Underhill	Corporal	46.65	45.38		1.27	
9	Michael Alderman	do	47.83	46.33		1.50	
10	John W. Riggs	do	47.83	46.33		1.50	
11	William Simmons	do	47.83		46.33	1.50	Balance suspended; no power of attorney filed.
12	Benjamin Hilliard	Bugler	46.20	44.82		1.38	
13	James H. Thomas	do	44.43	44.43			Paid as private instead of musician; short payment exceeds overpayment.
14	Mathew Driggers	F. and B	49.50	43.07		6.33	Difference between pay of private and pay of farrier disallowed; infantry not allowed a farrier.
15	Alderman, Jesse	Private	44.43	43.07		1.36	
16	Alderman, Mathew	do	44.43	43.07		1.36	
17	Alderman, Mitchel	do	44.43	43.07		1.36	
18	Alderman, William	do	44.43	43.07		1.36	
19	Braning, David	do	43.56	42.20		1.36	
20	Barber, William W	do	42.70	41.30		1.40	
21	Burnett, Mathew	do	42.70	41.30		1.40	
22	Brown, Henry	do	42.70	41.30		1.40	
23	Canova, Andrew	do	34.65	33.30		1.35	
24	Cathron, Aaron C	do	44.43	43.07		1.36	
25	Campbell, William L	do	38.21	36.85		1.36	
26	Carlton, Isaac	do	44.43	43.07		1.36	
27	Collins, William A	do	44.43	43.07		1.36	
28	Driggers, Jacob	do	44.43	43.07		1.36	
29	English, Eli	do	44.43	43.07		4.36	
30	Gillet, Daniel	do	44.43	43.07		1.36	
31	Gillet, Daniel K	do	44.43	43.07		1.36	
32	Gillet, David W	do	44.43	43.07		1.36	
33	Guilley, William	do	44.43	43.07		1.36	
34	Guilley, Nathan	do					Not paid.
35	Guy Benjamin	do	44.43	43.07		1.36	
36	Guy, William B	do	44.43	43.07		1.36	
37	Hendry, George W	do	44.43	43.07		1.36	

38	Hendry, Albert J	do	38.21	36.85		1.36	
39	Henderson, Robert	do	44.43		43.07	1.36	Balance suspended; no power of attorney filed.
40	Hilliard, Benjamin	do	43.56	42.20		1.36	
41	Hooker, John J	do	44.43	43.07		1.36	
42	Hooker, William J	do	44.43	43.07		1.36	
43	Hooker, Stephen P	do	44.43	43.07		1.36	
44	Hollingsworth, William R	do	44.43	43.07		1.36	
45	Hollingsworth, John H	do	44.43	43.07		1.36	
46	Howard, Seth	do	43.56	42.20		1.36	
47	Ivy, William I	do	42.70	41.36		1.40	
48	Jones, Lucurtes	do	41.83	40.40		1.43	
49	Langford, Henry	do	44.43	43.07		1.36	
50	Lanier, Lewis	do	44.43	43.07		1.36	
51	McLeod, Daniel J	do	43.56	42.20		1.36	
52	McLeod, John	do	43.56	42.20		1.36	
53	McLeod, William	do	43.56	42.20		1.36	
54	McCullough, William	do	44.43	43.07		1.36	
55	McDonald, John	do	44.43	43.07		1.36	
56	McMullen, James P	do	44.43	43.07		1.36	
57	Moore, Joseph	do	44.43	43.07		1.36	
58	Main, David	do	37.66	36.06		1.60	Also error of 27 cents in calculation of pay.
59	Moody, Benjamin	do	39.99	38.63		1.36	
60	Moody, James A	do	44.43	43.07		1.36	
61	Moody, William B	do	44.43	43.07		1.36	
62	O'Neill, John	do	44.43	43.07		1.36	
63	Orr, Henry B	do	44.43	43.07		1.36	
64	Parker, William	do	44.43	43.07		1.36	
65	Pelham, Richard	do	44.43	43.07		1.36	
66	Platt, John	do	43.56	42.20		1.36	
67	Platt, Lewis B	do	44.43	43.07		1.36	
68	Platt, William C	do	44.43	43.07		1.36	
69	Raulerson, Jacob R	do	44.43	43.07		1.36	
70	Riggs, Joshua D. C	do	38.21	36.85		1.36	
71	Russell, David	do	44.43	43.07		1.36	
72	Singletary, Simpson	do	44.43	43.07		1.36	
73	Skipper, John L	do	42.70	41.30		1.40	
74	Sloan, Daniel	do	44.43	43.07		1.36	
75	Sloan, Alford	do	43.56	42.20		1.36	
76	Sloan, Joseph	do	44.43	43.07		1.36	
77	Sloan, Owen	do	43.56	42.20		1.36	
78	Smith, Renney J	do	44.43	43.07		1.36	
79	Stallings, William W	do	43.56	42.20		1.36	
80	Summerall, Thomas	do	44.43	43.07		1.36	
81	Tyson, George	do	43.56	42.20		1.36	
82	Underhill, William	do	44.43	43.07		1.36	
83	Waters, Isaac	do	44.43	43.07		1.36	
84	Weeks, John	do	38.21	36.85		1.36	
85	Wilson, James T	do	44.43	43.07		1.36	
86	Whidden, Bennett	do	42.70	41.30		1.40	
87	Whidden, James, jr	do					Not paid
88	Whidden, John	do	38.21	36.85		1.36	
89	Whidden, Edward	do	44.43	43.07		1.36	

EXHIBIT No. 18.—*Statement of differences—Voucher No.* 1, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
90	Whidden, Jesse	Private	$43.56	$42.20		$1.36	
91	Whidden, Maxfield, sr	do	43.56	42.20		1.36	
92	Whidden, Maxfield, jr	do	43.56	42.20		1.36	
93	Whidden, William	do	43.56	42.20		1.36	
94	Whidden, Willoughby	do	43.56	42.20		1.36	
95	Whidden, William J	do	44.43	43.07		1.36	
96	Whidden, James, sr	do	43.56	42.20		1.36	
97	Weeks, Levi	do	44.43	43.07		1.36	
98	Henry A. Crane	do	56.93		$43.07	13.86	Also $12.50 extra pay; company quartermaster and commissary not authorized. Balance suspended; no power of attorney filed.
			4,309.57	4,249.14	307.57	252.56	

All officers and men on this roll are overpaid two days' pay and clothing and one day for use of horse and horse equipments.
The company was mustered into United States service February 21; therefore, pay on this roll for that day is disallowed.
Pay and clothing are not allowed for January 31, but subsistence and pay for use of horse, being per diem allowances, are allowed for that day.

EXHIBIT No. 19.

Statement of differences—Voucher No. 2, Abstract A.

No.	Name]	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Francis M. Durrance	Captain	$867.96	$867.96			Short payments exceed overpayments. Entitled to $40 pay proper, $10 per month for command of company, $2.50 per month servant's clothing, and $1 per day subsistence prior to July 1, 1856; $60 pay proper, $10 command of company, $2.50 servant's clothing, and $1.50 per day subsistence since July 1, 1856.
2	Edward T. Kendrick	First lieutenant	807.96	748.38		$59.58	Entitled to $30 per month to July 1; $50 per month after July 1. Other allowances same as above, except for command of company.
3	Alderman Carlton	Second lieutenant	483.92			483.92	$73.43 of this amount is overpayment by various errors. The balance, $410.49, is disallowed, as the officer's name does not appear on the muster-roll, and there is no evidence that he was ever in the State service.
4	F. C. M. Bogges	First sergeant	194.50	194.50			
5	Joseph L. Durrance	Second sergeant	196.30	196.30			
6	Thomas Underhill	Third sergeant	196.30	171.00		25.30	Pay for use of horse since June 14, when horse was killed, is disallowed; not shown that he furnished a horse after that time. Less 1 day short paid pay and clothing.
7	John Attman	Fourth sergeant	196.30		$196.30		
8	Silas McClelland, sr	First corporal	167.76	167.76			
9	James H. Kenady	Second corporal	172.26		172.26		
10	James A. Stephens	Third corporal	165.61		165.61		
11	William H. Mansfield	Fourth corporal	172.26	172.26			
12	William H. Durrance	Bugler	166.66	166.66			
13	Lorenzo D. Townsend	do	159.96		159.96		Overpaid difference between pay of private and pay of farrier. Less 19 days' pay and clothing and 3 days' pay for use of horse short paid.
14	Wyley D. K. Pollard	F. and B	177.96	161.71		16.25	
15	Attman, James R	Private	159.96	159.96			
16	Attman, William	do	159.96		159.96		
17	Branen, Joseph S	do	159.96		159.96		
18	Brooker, Stephen	do	159.96	159.96			
19	Brazil, Green	do	159.96		159.96		
20	Brooker, William P	do	159.96		159.96		
21	Brown, Reigdon	do	159.96	159.96			
22	Brown, Reigdon H	do	159.96		159.96		
23	Brown, William H	do	159.96		159.96		
24	Carlton, Daniel H	do	150.96	134.51		25.45	Overpaid for use of horse since June 14, when horse was killed; no shown to have remounted himself. Less 1 day's pay and clothing short paid.
25	Crews, Isham	do	159.96	159.96			
26	Davis, Stafford	do	159.96	159.96			
27	Dyning, Jeremiah	do	178.71	178.71			
28	Downing, Charles W	do	159.96		159.96		
29	Durrance, George T	do	159.96	159.96			
30	Durrance, John R	do	159.96		159.96		

Statement of differences—Voucher No. 2, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
31	Durrance, Jesse H	Private	$159.96	$159.96			
32	Ellis, Thomas	do	159.96		$159.96		
33	Ellis, Thomas B	do	159.96		159.96		
34	Ellis, William	do	159.96		159.96		
35	Garrison, Green	do	159.96		159.96		
36	Green, Israel	do	159.96		159.96		
37	Green, John	do	159.96	159.96			
38	Godwin, Jacob	do	159.96		159.96		
39	Godwin, John	do	159.96		159.96		
40	Godwin, Samuel S	do	159.96		159.96		
41	Haywood, John	do	159.96		128.51	31.45	Overpaid for use of horse since May 30, when horse died; not shown to have remounted himself. Less 1 day's pay and 55 cents clothing short paid.
42	Hickey, Dennis	do	159.96	159.96			
43	Hinson, Alfred G	do	159.96		159.96		
44	Hill, Thomas W	do	159.96		159.96		
45	Mansfield, George	do	159.96		159.96		
46	McClelland, Maxfield	do	159.96	159.96			
47	McClelland, Erastus W	do	159.96		128.51	31.45	Same as No. 41.
48	McClelland, Jesse	do	159.96		159.96		
49	McClelland, Moses A	do	159.96		159.96		
50	McClelland, William	do	159.96	159.96			
51	McCormick, Thomas	do	159.96		159.96		
52	Platt, Berrian	do	159.96	159.96			
53	Platt, Peter	do	159.96	159.96			
54	Ranlerson, Jackson	do	159.96	159.96			
55	Ranlerson, John B	do	159.96	159.96			
56	Ranlerson, Raburn	do	159.96	159.96			
57	Roberts, James	do	159.96		159.96		
58	Sistrunk, Henry	do	159.96	159.96			
59	Shepherd, Isaac	do	159.96	159.96			
60	Seward, Walter B	do	159.96		159.96		
61	Scott, Charles H	do	159.96		159.96		
62	Shepherd, W. H	do	159.96	159.96			
63	Summerall, Joseph	do	159.96		159.96		
64	Tillis, Dempsey	do	159.96		159.96		
65	Tillis, James L	do	159.96		124.51	35.45	Overpaid for use of horse since June 14, when horse was killed; not shown to have remounted himself. Less 1 day's pay and 55 cents clothing short paid.
66	Thomas, John	do	159.96	159.96			
67	Tyre, John	do	159.96		159.96		
68	Tillis, Willoughby	do	159.96	124.51		35.45	Same as No. 65.
69	Tyre, Thomas L	do	159.96		159.96		
70	Underhill, Joseph	do	159.96		159.96		
71	Varns, Frederick	do	159.96	159.96			

74	Williams, James	do	159.96		159.96		
75	Weissboad, Herman	do	159.96	159.96			
76	Whidden, James	do	159.96	159.99			
77	Wareing, Francis H	do	159.96		159.96		
78	Whidden, John	do	159.96	159.96			
79	Easom, Messic H	Private	51.35		50.85	0.50	Overpaid 1 day in pay and clothing.
80	Howell, Joseph	do	77.82	76.86		96	Overpaid 73 cents pay and 23 cents clothing.
81	Hogan, Daniel	do	103.16	103.04		12	Overpaid 36 cents pay and 18 cents clothing. Less 40 cents horse pay and 2 cents error in extension short paid.
82	Payne, Cyrus D	do	79.09	78.14		95	Overpaid 73 cents pay and 22 cents clothing.
83	Ranlerson, John	do	83.35		83.35		
84	Tyre, Jacob H	do	55.10		55.10		
85	Whidden, Bennet, jr	do	55.10	55.10			
86	Wiggins, John R	do	55.10	55.10			
87	John Howell	Second lieutenant	267.95	267.95			
88	Marvel M. Edwards	First sergeant	77.40		77.40		Not borne on muster-roll except by reference. See Daniel Hogans.
89	John E. Tucker	Private	79.98		79.98		Not borne on muster-roll except by reference. See Cyrus D. Payne.
90	James M. Harrel	Corporal	62.26			62.26	This man does not appear on muster-roll, and there is no evidence that he was ever in the State service; receipted for by attorney.
91	Robert T. Prine	Private	100.26		100.26		Not borne no muster-roll except by reference. See J. R. Wiggins.
92	Randall B. Williams	do	90.52		90.52		Not borne on muster-roll except by reference. See Messic H. Easom.
93	Lot Whidden	do	99.49		99.49		Not borne on muster-roll except by reference. See Bennet Whidden, jr.
94	Levi Starling	do	75.49		75.48		Not borne on muster-roll except by reference. See John Ranlerson.
	John Evans	Corporal					Not paid.
	Nelson McDonald	Private					Do.
	Christoper C. Rauls	do					Do.
			15,794.91	8,088.91	6,916.81	788.09	
						10	Overaddition of amount claimed.
			15,794.91	8,088.91	6,916.81	789.19	

The men on this roll are short paid one day's pay and allowances, except where otherwise indicated in remarks. Payments suspended; no powers of attorney filed.

EXHIBIT No. 20.

Statement of differences—Voucher No. 3, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	F. M. Durrance	Captain	$578.64	$578.64			Entitled to $60 per month pay proper, $10 per month for command of company, $1.50 per day for subsistence, $2.50 per month servant's clothing. Short payments exceed overpayments.
2	Willoughby Tillis	First lieutenant	538.64	518.64			Short payments exceed overpayments.
3	Joseph Howell	Second lieutenant	518.64	518.64			Do.
4	T. C. M. Bogges	First sergeant	142.64	142.64			
5	Thomas L. Tyre	Second sergeant	130.84		$130.84		
6	Jacob Tyre	Third sergeant	130.84		130.84		
7	James A. Stephens	Fourth sergeant	130.84		130.84		
8	John Ranlerson	First corporal	114.72		114.72		
9	Berrien Platt	Second corporal	114.72	114.72			
10	Thomas Ellis	Third corporal	114.72		114.72		
11	Dempey Tillis	Fourth corporal	114.72		114.72		
12	Isaac Watters	Bugler	111.12	111.12			
13	John R. Durrance	do	106.64	166.64			
14	John Tyre	F. and B	118.64		107.48	$11.16	Overpaid difference between private F. and B., less 80 cents short paid for use and risk of horse and 4 cents short paid in clothing. Infantry not entitled to F. and B.
15	Attman, William	Private	106.64		106.64		
16	Attman, James R	do	106.64	106.64			
17	Attman, John	do	106.64		106.64		
18	Attman, Lewis	do	106.64		106.64		
19	Blout, John	do	106.64	106.64			
20	Boney, David J. W	do	106.64	106.64			
21	Baxley, Willis	do	106.64		106.64		
22	Brown, William	do	106.64		106.64		
23	Durance, Joseph L	do	106.64	106.64			
24	Durance, William H	do	106.64	106.64			
25	Durance, Jesse H	do	106.64	106.64			
26	Dunning, Jeremiah	do	106.64	106.64			
27	Ellis, William	do	106.64	106.64			
28	Esson, M. H	do	106.54		106.64		
29	Ellis, Thomas B	do	106.64		106.64		
30	Green, John	do	106.64	106.64			
31	Godwin, John	do	106.64		106.64		
	Garrison, Green	do					Not paid.
32	Godwin, Jacob	do	106.64		106.64		
33	Hill, Thomas W	do	106.64		106.64		
34	Hogan, Daniel N	do	106.64	106.64			
	Haywood, John	do					Not paid.
35	Hendry, Charles W	do	106.64	106.64			
36	McClelland, William	do	106.64	106.64			
37	McClelland, William E	do	106.64		106.64		
38	McClellen, Jesse	do	106.64		106.64		

39	Mansfield, Willard H	do	106.64	106.64			
40	Mansfield, George	do	106.64		106.64		
41	Platt, Peter	do	106.64			$106.64	Was dismissed without pay October 22, 1856.
42	Payne, Cyrus D	do	106.64	106.64			
43	Seward, Henry S	do	106.64	106.64			
44	Seward, Felix J	do	106.64	106.64			
45	Seward, Zachariah	do	106.64	106.64			
46	Shepard, William W	do	106.64	106.64			
47	Scott, Charles H	do	106.64		106.64		
48	Sistrunk, Henry	do	106.64	106.64			
49	Shepard, Isaac	do	106.64	106.64			
50	Seward, Walter B	do	106.64		106.64		
51	Thomas, John	do	106.64	106.64			
52	Thomas, Lewis	do	106.64	106.64			
53	Underhill, Thomas	do	106.64	106.64			
54	Varn, Josiah	do	106.64	106.64			
55	Weissbroad, Herman	do	106.64	106.64			
56	Whitehurst, George W	do	106.64		106.64		
57	Whidden, Eli P	do	106.64	106.64			
58	Williams, James	do	106.64		106.64		
59	Branen, Joseph S	do	72.66		72.40	.26	Overpaid in clothing 66 cents, and short paid for use of horse 40 cents; balance, overpaid, 26 cents.
60	Brown, Rigdon H	do	72.66		72.40	.26	Do.
61	Blount, Redding	do	72.66	72.40		.26	Do.
62	Baxley, James	do	72.66		72.40	.26	Do.
63	Branen, Mileage	do	72.66		72.40	.26	Do.
64	Baxley, Samuel	do	72.66	72.40		.26	Do.
65	Canady, James H	do	72.66		72.40	.26	Do.
66	Canady, Henry	do	72.66		72.40	.26	Do.
67	Durrance, George T	do	72.66	72.40		.26	Do.
68	Downing, Charles W	do	72.66	72.40		.26	Do.
69	Evans, John	do	72.66		72.40	.26	Do.
70	Filmore, Martin	do	72.66		72.40	.26	Do.
71	Green, Israel	do	72.66		72.40	.26	Do.
72	Hall, William	do	72.66		72.40	.26	Do.
73	Hearn, James	do	72.66		72.40	.26	Do.
74	Hague, Gideon	do	72.66	72.40		.26	Do.
75	Hogans, Andrew J	do	72.66		72.40	.26	Do.
76	McClelland, Maxfield	do	72.66	72.40		.26	Do.
77	McClelland, Silas	do	72.66	72.40		.26	Do.
78	Ranlerson, John B	do	72.66	72.40		.26	Do.
79	Ranlerson, Rabourn	do	76.66	72.40		.26	Do.
80	Ranlerson, Jackson	do	72.66	72.40		.26	Do.
81	Varn, Frederick	do	72.66	72.40		.26	Do.
82	Varn, William	do	72.66	72.40		.26	Do.
83	Wiggins, William	do	72.66	72.40		.26	Do.
84	Wiggins, John R	do	72.66	72.40		.26	Do.
85	Waring, Francis H	do	72.66		72.40	.26	Do.
86	Whidden, James L	do	72.66	72.40		.26	Do.
			9,693.00	5,969.68	3,598.24	125.08	

The men on this roll are short paid one day each in pay for use and risk of horse, except where otherwise indicated in remarks.

EXHIBIT No. 21.

Statement of differences—Voucher No. 4, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William H. Kendrick	Captain	$867.96	$867.96			Short paid two days in time; entitled to $40 per month pay proper, $10 for command of company, $1 per day subsistence, and $2.50 per month servant's clothing prior to July 1, and to $60 per month pay proper, $10 per month for command of company, $1.50 per day subsistence, and $2.50 per month servant's clothing since July 1; short payments exceed overpayment.
2	Francis M. Durrance	Lieutenant	807.96	759.16		$48.80	Short paid two days in time; overpaid $20 per month in pay proper prior to July 1; entitled only to $2.50 per month servant's clothing; overpayments exceed short payments.
3	John Knight	do	777.96	728.83		49.13	Same as No. 2.
4	Joseph M. Tucker	Sergeant	202.30	202.30			
5	Enoch B. Phelps	do	196.30	196.30			
6	James M. Bates	do	196.30	196.30			
7	Morgan Mizell	do	196.30	196.30			
8	Jesse H. Tucker	Corporal	172.26	172.26			
9	Seth S. Prevatt	do	172.26	172.26			
10	William D. O'Neill	do	172.26	172.26			
11	George Stafford	do	172.26	172.26			
12	Nathan Boyet	Bugler	166.56	166.56			
13	William R. Overstreet	do	159.96		$159.96		
14	Nathaniel M. Moody	F. and B	177.96	162.59		15.57	Overpaid difference of pay between private and F. and B., less two days' pay and clothing and four day's pay for use of horse short paid.
15	Bates, John M	Private	159.96	159.96			Short paid two days' pay and clothing, and four days' pay for use and risk of horse, $2.63.
16	Bates, Robert J	do	159.96	159.96			Do.
17	Bates, George W	do	159.96	159.96			Do.
18	Barnes, Caleb	do	159.96	159.96			Do.
19	Barnes, James F	do	159.96	159.96			Do.
20	Bradford, James I	do	159.96		159.96		Do.
21	Branch, Charles L	do	159.96		159.96		Do.
22	Branch, Samuel E. I	do	159.96	159.96			Do.
23	Branch, William T	do	159.96	159.96			Do.
24	Bassil, Darling	do	159.96		159.96		Do.
25	Bisset, George	do	159.96	159.96			Do.
26	Bird, Jackson	do	159.96	159.96			Do.
27	Boyet, Anderson A	do	159.96	159.96			Do.
28	Boyet, James A	do	159.96	159.96			Do.
29	Boyet, John	do	159.96	159.96			Do.
30	Brown, James L	do	159.96	159.96			Do.
31	Carter, Jesse W	do	159.96	159.96			Do.
32	Friar, James I	do	159.96	159.96			Do.
33	Gobrich, Peter	do	159.96	159.96			Do.

34	Goowin, Jacob	do	159.96	159.96			Do.
35	Head, Stephen	do	159.96	159.96			Do.
36	Hagan, Francis B	do	159.96	159.96			Do.
37	Hana, James H	do	159.96	159.96			Do.
38	Hammack, Samuel	do	159.96	159.96			Do.
39	Harn, Alonzi	do	159.96	159.96			Do.
40	Harn, Henry J	do	159.96	159.06			Do.
41	Harrell, John W	do	159.96	159.96			Do.
42	Hawthorn, Kedar	do	159.96	159.96			Do.
43	Hawthorn, Washington L	do	159.96	159.96			Do.
44	Jackson, Thomas B	do	159.96	159.96			Do.
45	Jackson, James W	do	159.96	159.96			Do.
46	Kersey, Liborn	do	159.96	159.96			Do.
47	Legget, Benjamin	do	159.96	159.96			Do.
48	Mathews, William H	do	159.96	159.96			Do.
49	Marsh, James I	do	159.96	159.96			Do.
50	Morris, James E	do	159.96		159.96		Do.
51	O'Neill, Seaborn C	do	159.96	159.96			Do.
52	Osborn, David	do	159.96	159.96			Do.
53	Pinkerton, Daniel W	do	159.96	159.96			Do.
54	Phelps, Joseph I	do	159.96	159.96			Do.
55	Platt, John W	do	159.96	159.96			Do.
56	Powell, George W	do	159.96	159.96			Do.
57	Rivers, Sylvester	do	159.96	159.96			Do.
58	Sharp, Charles W	do	159.96	159.96			Do.
59	Smith, William	do	159.96		159.96		Do.
60	Stafford, William	do	159.96		159.96		Do.
61	Sylvester, Augustine	do	159.96	159.96			Do.
62	Sumner, Jesse C	do	159.96	159.96			Do.
63	Tyner, Jackson	do	159.96	159.96			Do.
64	Tyner, Jordan	do	159.96		159.96		Do.
65	Tyner, Wilson	do	159.96	159.96			Do.
66	Thigpen, William H	do	159.96	159.96			Do.
67	Thomas, James M	do	159.96	159.96			Do.
68	Thomas, William	do	159.96	159.96			Do.
69	Thompson, William I	do	159.96	159.96			Do.
70	Tucker, Alonzi	do	159.96		159.96		Do.
71	Tucker, Edward D	do	159.96	154.96			Do.
72	Tucker, Pleasant T	do	159.96	159.96			Do.
73	Tucker, Lewis M	do	159.96	159.96			Do.
74	Tucker, Thomas R	do	159.96	159.96			Do.
75	Watson, William I	do	159.96		159.96		Do.
76	Wamsley, Lewis W	do	159.96		159.96		Do.
77	Weeks, Andrew J	do	159.96	159.96			Do.
78	Tucker, Thomas M	do	159.96	159.96			Do.
79	Weeks, George W	do	159.96	159.96			Do.
80	Wilson, John	do	159.96	159.96			Do.
81	Williams, Abraham F	do	159.96	159.96			Do.
82	Williams, Irwin I	do	159.96	159.96			Do.
83	Williams, Judge E	do	159.96		159.96		Do.
84	Wingate, Richard	do	159.96	159.96			Do.
85	Davis, William H	do	103.23		103.23		

Statement of differences—Voucher No. 4, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
86	Lanier, Isaac	Private	$40.00	$40.00			
87	McMinn, Charles I	do	48.42	48.42			
88	Sylvester, Eli	do	59.90	59.90			
89	Tucker, William W	do	94.71		$94.71		
90	Wilkinson, Malcom H	do	123.97		117.74	$6.23	Receipt purports to be signed by the soldier in person; died July 7 instead of July 17. See muster roll.
91	Williams, Robert H	do	171.96	171.96			
			16,277.99	13,923.26	2,235.20	119.53	

EXHIBIT NO. 22.

Statement of differences—Voucher No. 5, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William H. Kendrick	Captain	$481.96	$481.96			Entitled to $60 per month pay proper, $10 per month for command of company, $1.50 per day for subsistence, and $2.50 per month servant's clothing, and overpaid 2 days' pay and servant's pay. Short payments exceed overpayments.
2	Nathaniel M. Moody	Lieutenant	448.62	448.62			Overpaid 2 days' pay and servants' pay; short paid in subsistence. Short payments exceed overpayments.
3	Morgan Misell	do	431.96	431.96			Do.
4	Thomas Barco	Sergeant	118.79	117.59		$1.20	Overpaid 2 days' pay, less 13 cents short paid in clothing.
5	Stephen D. Hall	do	108.79	107.70		1.09	Overpaid 2 days' pay, less 4 cents short, paid in clothing.
6	George W. Weeks	do	108.79	107.70		1.09	Do.
7	Nathan Boyet	do	108.79	107.70		1.09	Do.
8	James F. Barnes	Corporal	95.33	94.59		.74	Overpaid 2 days' pay, less 12 cents short paid in clothing.
9	Joshua A. Platt	do	95.33	94.59		.74	Do.
10	John Boyet	do	95.33	94.59		.74	Do.
11	Daniel W. Pinkston	do	95.33	94.59		.74	Do.
12	Edward Boyet	Bugler	92.38	91.49		.89	Overpaid 2 days' pay and 9 cents clothing.
13	William R. Overstreet	do	88.64		$88.64		Overpaid 2 days' pay, but short paid as musician. Short payments exceed overpayments.
14	James M. Bates	E. and B	98.64	87.91		10.73	Overpaid 2 days' pay and difference between private and F. and B Infantry not entitled to F. and B.
15	Allen, William E	Private	88.64	87.91		.73	Overpaid in pay proper 2 days each.
16	Bates, John M	do	88.64	87.91		.73	Do.
17	Bates, Robert I	do	88.64	87.91		.73	Do.
18	Bates, George W	do	88.64		87.91	.73	Do.
19	Bissett, George	do	88.64	87.91		.73	Do.
20	Boyet, John G. B	do	88.64		87.91	73	Do.
21	Brassel, Darling	do	88.64		87.91	.73	Do.
22	Branch, William T	do	88.64	87.91		.73	Do.
23	Carter, Jesse	do	88.64	87.91		.73	Do.
24	Chapman, Nathaniel T	do	88.64	87.91		.73	Do.
25	Coleman, John	do	88.64	87.91		.73	Do.
26	Douglass, Daniel B	do	88.64	87.91		.73	Do.
27	Duggers, James J	do	88.64	87.91		.73	Do.
28	Frier, James J	do	88.64	87.91		.73	Do.
29	Gobrick, Peter	do	88.64	87.91		.73	Do.
30	Godwin, Jacob	do	88.64	87.91		.73	Do.
31	Green, John C	do	88.64		87.91	.73	Do.
32	Hand, James H	do	88.64	87.91		.73	Do.
33	Ham, Alonzo	do	88.64	87.91		.73	Do.
34	Hagan, Francis B	do	88.64	87.91		.73	Do.
35	Harn, Henry, jr	do	88.64		87.91	.73	Do.
36	Hammock, Samuel	do	88.64	87.91		.73	Do.

Statement of differences—Voucher No. 5, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
37	Harris, Joseph	Private	$88.64	$87.91		$0.73	Overpaid in pay proper two days each.
38	Halliday, Edward B	do	88.64		$87.91	.73	Do.
39	Harrell, Edward E	do	88.64	87.91		.73	Do.
40	Jackson, James W	do	88.64	87.91		.73	Do.
41	Jackson, William S	do	88.64	87.91		.73	Do.
42	Jackson, Thomas B	do	88.64	87.91		.73	Do.
43	Jones, Mathew E	do	88.64	87.91		.73	Do.
44	Kersey, Libourn	do	88.64	87.91		.73	Do.
45	Kyle, Christopher H	do	88.64	87.91		.73	Do.
46	Knight, John	do	88.64	87.91		.73	Do.
47	Lanier, Isaac	do	88.64	87.91		.73	Do.
48	Mobley, Ransom	do	88.64	87.91		.73	Do.
49	Mathews, William W	do	88.64	87.91		.73	Do.
50	Morris, James E	do	88.64		87.91	.73	Do.
51	Moody, Enoch M	do	88.64		87.91	.73	Do.
52	Nettles, Isaac	do	88.64	87.91		.73	Do.
53	Osburne, David	do	88.64	87.91		.73	Do.
54	Prevatt, Seth S	do	88.64	87.91		.73	Do.
55	Powell, George M	do	88.64	87.91		.73	Do.
56	Platt, John B	do	88.64	87.91		.73	Do.
57	Ryols, Daniel C	do	88.64	87.91		.73	Do.
58	Stafford, George	do	88.64	87.91		.73	Do.
59	Stafford, William	do	88.64		87.91	.73	Do.
60	Sylvester, Eli	do	88.64		87.91	.73	Do.
61	Smith, Andrew J	do	88.64	87.91		.73	Do.
62	Smith, John	do	88.64	87.91		.73	Do.
63	Smith, William	do	88.64		87.91	.73	Do.
64	Sumner, Jesse C	do	88.64	87.91		.73	Do.
65	Tucker, Thomas M	do	88.64	87.91		.73	Do.
66	Tucker, Edward D	do	88.64	87.91		.73	Do.
67	Tucker, Alonzo	do	88.64		87.91	.73	Do.
68	Tucker, Thomas R	do	88.64	87.91		.73	Do.
69	Tyner, Jordan	do	88.64		87.91	.73	Do.
70	Thigpen, William H	do	88.64	87.91		.73	Do.
71	Tyner, Jackson	do	88.64	87.91		.73	Do.
72	Tyner, Wilson	do	88.64	87.91		.73	Do.
73	Thomas, James M	do	88.64	87.91		.73	Do.
74	Thomas, William	do	88.64	87.91		.73	Do.
75	Tucker, Lewis M	do	88.64	87.91		.73	Do.
76	Tucker, Pleasant F	do	88.64		87.91	.73	Do.
77	Wills, Israel I	do	88.64	87.91		.73	Do.
78	Wamsley, Lewis W	do	88.64	87.91		.73	Do.
79	Williams, James M	do	88.64		87.91	.73	Do.
80	Weeks, Silas	do	88.64	87.91		.73	Do.
81	Wells, Jacob	do	88.64	87.91		.73	Do.

82	Wingate, Richard	do	88.64		87.91	.73	Do.
83	Wilson, John	do	88.64	87.91		.73	Do.
84	O'Neill, William D	do	24.86	23.51		1.35	Overpaid two days' pay proper, one day for use of horse, and 22 cents clothing.
85	Phelps, Enoch B	do	15.65	14.63		1.02	Overpaid two days' pay proper, one day for use of horse, less 11 cents short paid in clothing.
86	Buck, Richard W	do	88.74		86.14	2.60	Overpaid $2.56 in pay proper and 4 cents in clothing.
87	Garrison, William M	do	60.58	60.58			
88	Hutchinson, James E	do	60.58	60.58			
89	Harrell, John W	do	71.25	71.25			
			8,906.50	7,250.77	1,581.34	74.39	

EXHIBIT No. 23.

Statement of differences—Voucher No. 6, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Abner D. Johnston	Captain	$892.07	$892.07			Short paid one day in time. Entitled to $40 per month pay proper and $10 per month for command of company, and $1 per day subsistence, prior to July 1, 1856, and $60 per month pay proper, $10 per month for command of company, and $1.50 per day subsistence since July 1, 1856, and $2.50 per month for servants' clothing. Short payments exceed overpayments.
2	Lee W. Crews	First lieutenant	830.40	780.27		$50.13	Overpaid $20 per month pay proper prior to July 1, 1856. Entitled only to $2.50 per month servants' clothing, but short paid in subsistence 50 cents per day since July 1, 1856. Overpayments exceed short payment.
3	James Weeks	Second lieutenant	799.57	750.27		49.30	Same as No. 2.
4	Moses Daniels	Sergeant	220.88	220.88			
5	John S. Barrenton	do	201.71	201.71			
6	John Aiken	do	201.71	201.71			
7	Hiram Parrish	do	201.71	201.71			
8	James B. Crum	Corporal	176.71	176.71			
9	Daniel B. Chiver	do	176.71	176.71			Signs *Shiver*.
10	Crawford Williamson	do	176.71	176.71			
11	Michael Whitman	do	176.71		$176.71		
12	Aaron Wooley	Bugler	171.31		171.31		
13	James H. Murchey	do	164.41	164.41			
14	James W. Stanley	F. and B	182.90		166.55	16.35	Overpaid difference between private and F. and B. less 1 day's pay and clothing short paid. Infantry not entitled to F. and B.
15	Akins, Preston	Private	164.41	164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
16	Beckham, Alex. C	do	164.41		164.41		Do.
17	Beckham, Marion J	do	164.41	164.41			Do.
18	Bennett, Charles	do	164.41	164.41			Do.
19	Berill, Granville	do	164.41	164.41			Do.
20	Bradshaw, Dixon G. H	do	164.41		164.41		Do.
21	Bradshaw, James B	do	164.41		164.41		Do.
22	Brown, William C	do	164.41	164.41			Do.
23	Brown, Nathaniel L	do	164.41	164.41			Do.
24	Caruthers, Augustus L	do	164.41	164.41			Do.
25	Clay, Shadrach H	do	164.41	164.41			Do.
26	Collins, Daniel	do	164.41	164.41			Do.
27	Collins, George W	do	164.41	164.41			Do.
28	Collins, James	do	164.41	164.41			Do.
29	Condy, James A	do	164.41		164.41		Do.
30	Crawford, Emanuel	do	164.41	164.41			Do.
31	Crews, Edward F	do	164.41		164.41		Do.
32	Crum, Harmon	do	164.41	164.41			Do.
33	Evins, Alex. L	do	164.41	164.41			Do.

34	Evins, Charles	do	164.41	164.41			Do.
35	Fussell, Arnold B	do	164.41		164.41		Do.
36	Fussell, James C	do	164.41	164.41			Do.
37	Fussell, William	do	164.41	164.41			Do.
38	Gant, Jacin	do	164.41	164.41			Do.
39	Gant, John B	do	164.41	164.41			Do.
40	Glenn, John R	do	164.41		164.41		Do.
41	Godwin, Seaborn	do	164.41	164.41			Do.
42	Hanley, Wells	do	164.41	164.41			Do.
43	Hart, Christopher C	do	164.41		164.41		Do.
44	Hart, William B	do	164.41		164.41		Do
45	Hays, George F	do	164.41	164 41			Do.
46	Hays, Robert	do	164.41	164.41			Do.
47	Hays, William J	do	164.41	164.41			Do.
48	Hutchinson, David	do	164.41	164.41			Do.
48½	Johnson, James F. P	do	164.41			164.41	These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing. No receipt.
49	Johnson, John W	do	164.41	164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
50	Jones, James	do	164.41	164.41			Do.
51	Jones, James W	do	164.41	164.41			Do.
52	Lea, Calvin J	do	164.41		164.41		Do.
53	Lewis, Charles W	do	164.41	164.41			Do.
54	Logan, William	do	164.41	164.41			Do.
55	Lockerly, Irvin	do	164.41	164.41			Do.
56	Massey, John	do	164.41	164.41			Do.
57	Matchett, Jacob	do	164.41	164.41			Do.
58	Matchett, John W	do	164.41	164.41			Do.
59	Matchett, William	do	164.41	164.41			Do.
60	McCught, Austin	do	164.41	164.41			Do.
61	Merrit, Josiah	do	164.41		164.41		Do.
62	Merrit, Paton	do	164.41	164.41			Do.
63	McNair, James S	do	164.41		164.41		Do.
64	Mills, George	do	164.41	164.41			Do.
65	Mims, John L	do	164.41	164.41			Do.
66	Mobley, George R	do	164.41	164.41			Do.
67	Mobley, John	do	164.41		164.41		Do.
68	Newberry, David J. W	do	164.41		164.41		Do.
69	Newberry, Hezekiah	do	164.41	164.41			Do.
70	Odom, James P	do	164.41	164.41			Do.
71	Ross, Lorenzo D	do	164.41	164.41			Do.
72	Rutherford, Austin G	do	164.41	164.41			Do.
73	Sloan, Alexander L	do	164.41	164.41			Do.
74	Sloan, William W	do	164.41	164.41			Do.
75	Stanley, Miller	do	164.41	164.41			Do.
76	Swicord, Joseph	do	164.41	164.41			Do.
77	Swicord, Michael	do	164.41	164.41			Do.
78	Swicord, William F	do	164.41		164.41		Do.
79	Tillman, John B	do	164.41		164.41		Do.
80	Thompson, Abner J	do	164.41		164.41		Do.
81	Wall, James G	do	164.41		184.41		Do.
82	Weeks, Richard A. K. C	do	164.41	164.41			Do.

Statement of differences—Voucher No. 6, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
83	Weeks Stephen	Private	$164.41	$164.41			These men are short paid one day each in pay proper, four days in pay for use and risk of horse, and 17 cents in clothing.
84	Whitman, Bryant	do	164.41		$164.41		Do.
85	Whitman, Jacob	do	164.41	164.41			Do.
86	Whitman, James	do	164.41	164.41			Do.
87	Williams, Blaney	do	164.41	164.41			Do.
			16,739.85	12,821.30	3,638.36	$280.19	

There is no muster roll of this company.

EXHIBIT No. 24.

Statement of differences—Voucher No. 7, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Abner D. Johnston	Captain	$531.02	$531.02			Overpaid two days in time, and overpaid in allowance for clothing of servant. Short paid 50 cents per day in subsistence, and not paid $10 per month for command of company. Short payments exceed overpayments.
2	James P. F. Johnston	Lieutenant	494.35	494.35			Overpaid two days in time, and overpaid in servant's clothing allowance. Short paid 50 cents per day in subsistence. Short payments exceed overpayments.
3	James Weeks	do	476.02	476.02			Same as No. 2.
4	Richard R. C. Weeks	Sergeant	130.96	129.11		$1.85	Overpaid two days' pay proper; one day for use of horse, and 12 cents clothing.
5	Millard Stanley	do	120.53	118.21		2.32	Overpaid three days' pay proper; one day for use of horse, and 22 cents clothing.
6	John W. Matchett	do	120.53		$118.21	2.32	Do.
7	Abner I. Thompson	do	120.53		118.21	2.32	Do.
8	Jason Gant	Corporal	105.29	103.76		1.53	Overpaid two days' pay proper; one day for use of horse, and 27 cents clothing.
	Thomas H. Stewman	do					
9	William H. Calson	do	67.81	66.43		1.38	Overpaid two days' pay proper; one day for use of horse, and 12 cents clothing.
10	Benjamin B. Williams	do	67.81		66.43	1.38	Do.
11	Robert I. Beckham	Bugler	102.00	100.34		1.66	Overpaid two days' pay proper; one day for use of horse, and 46 cents clothing.
12	John L. Mims	do	82.50		82.50		Overpaid two days' pay proper; one day for use of horse; but paid only as private. Short payments exceed overpayments.
13	James W. Stanley	F. and B.	108.97	96.41		12.56	Overpaid two days' in time; also in difference between pay of private and F. and B. Infantry not entitled to F. and B.
14	Aiken, Preston	Private	97.97	96.41		1.56	Overpaid in clothing 43 cents; also two days' pay, and one day for use of horse.
15	Aiken, John	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
16	Beckham, Hiram	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
17	Bennet, Charles	do	97.97	96.41		1.56	Do.
18	Brown, Nathan L	do	97.97	96.41		1.56	Do.
19	Beckham, Jerome M	do	82.50		81.30	1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents clothing.
20	Black, George W	do	82.50	81.30		1.20	Do.
21	Badger, Edward N	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
22	Bradshaw, Dixon G. H.	do	62.83		61.74	1.09	Do.
23	Colding, Thomas C	do	62.83	61.74		1.09	Do.
24	Colding, Samuel	do	62.83		61.74	1.09	Do.
25	Collins, George W	do	62.83	61.74		1.09	Do.
26	Colding, James B.	do	62.83	61.74		1.09	Do.
27	Colson, Thomas K	do	62.83	61.74		1.09	Do.

Statement of differences—Voucher No. 7, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
28	Colson, Abraham	Private	$62.83	$61.74		$1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
29	Carter, Hardee	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents in clothing.
30	Clay, Shadrach	do	97.97	96.41		1.56	Do.
31	Cook, James H	do	97.97	96.41		1.56	Do.
32	Collins, David	do	82.50	81.30		1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents in clothing.
33	Collins, James A	do	82.50	81.30		1.20	Do.
34	Cochron, Edward	do	82.50	81.30		1.20	Do.
35	Daniel, Moses	do	97.97	96.41		1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
36	Dickson, John S	do	97.97		$96.41	1.56	Do.
	Duncan, Daniel	do					
37	Evans, Charles	do	97.97		96.41	1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
38	Fassie, James C	do	97.97	96.41		1.56	Do.
39	Goodwin, Seaborn	do	97.97	96.41		1.56	Do.
40	Golden, Darling	do	97.97		96.41	1.56	Do.
41	Griffin, Francis	do	82.50	81.30		1.20	Overpaid two days' pay, and one day for use of horse, and 7 cents clothing.
42	Gant, John B	do	82.50	81.30		1.20	Do.
43	Hutchinson, David	do	62.83	61.74		1.09	Overpaid two days' pay, and one day for use of horse; less 4 cents clothing short paid.
44	Hutchinson, Lewis B	do	97.97	96.41		1.56	
45	Harchey, Wells	do	97.97		96.41	1.56	Overpaid two days' pay, and one day for use of horse, and 43 cents clothing.
46	Jones, James	do	97.97	96.41		1.56	Do.
47	Jones, Watkins	do	97.97		96.41	1.56	Do.
48	Johnston, John W	do	97.97	96.41		1.56	Do.
49	Jernigan, Aaron, jr	do	97.97	96.41		1.56	Do.
50	Jernigan, Moses	do	97.97		99.41	1.56	Do.
51	Jones, David	do	97.97	96.41		1.56	Do.
52	Key, William	do	97.97	96.41		1.56	Do.
	Lewis, Littleton R	do					
53	Logan, Thomas L	do	97.97		96.41	1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
54	Lamar, John H	do	97.97	96.41		1.56	Do.
55	Marsay, John J	do	97.97	96.41		1.56	Do.
56	McNair, James S	do	97.97	96.41		1.56	Do.
57	McNair, John E	do	97.97	96.41		1.56	Do.
58	Mobly, John	do	97.97		96.41	1.56	Do.
59	Morgan, John A	do	62.83	61.74		1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
60	Odom, James P	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
61	Phelps, Joseph T	do	97.97	96.41		1.56	Do.
62	Parker, William	do	97.97		96.41	1.56	Do.
63	Parrish, Hiram	do	97.97		96.41	1.56	Do.

64	Pagett, William W	do	97.97		96.41	1.56	Do.
65	Rains, Mathew	do	97.97	96.41		1.56	Do.
66	Shiver, Daniel	do	97.97	96.41		1.56	Do.
67	Stafford, William H	do	97.97	96.41		1.56	Do.
68	Sivicord, William	do	97.97		96.41	1.56	Do.
69	Sivicord, Michael	do	97.97	96.41		1.56	Do.
70	Sivicord, Benjamin F	do	90.55		90.18	.37	Overpaid in pay proper one day.
	Sinclair, Alexander	do					
71	Sims, John S	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
72	Sims, Benjamin F	do	62.83		61.74	1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
73	Sylvester, William H	do	62.83	61.74		1.09	Do.
74	Skipper, John F	do	62.83	61.74		1.09	Do.
75	Skipper, William C	do	62.83		61.74	1.09	Do.
76	Tucker, Elijah H. H	do	62.83		61.74	1.09	Do.
77	Tillman, John B	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
78	Wall, James S	do	97.97	96.41		1.56	Do.
79	Whitman, James	do	97.97	96.41		1.56	Do.
80	Wi ks, Stephen	do	97.97	96.41		1.56	Do.
81	Williams, Wilson C	do	97.97	96.41		1.56	Do.
82	Williams, Alexander R	do	97.97	96.41		1.56	Do.
	Williams, William H	do					
83	Wilson, Simeon	do	97.97	96.41		1.56	Overpaid two days' pay proper; one day for use of horse, and 43 cents in clothing.
84	Whitman, Michael	do	62.83	61.74		1.09	Overpaid two days' pay proper; one day for use of horse, less 4 cents clothing short paid.
85	Wells, Simeon H	do	62.83		61.74	1.09	Do.
			8,833.93	6,622.27	2,084.19	127.47	

This company was mustered into the United States service December 20; not entitled to pay on these rolls for that day, nor for the 31st October.

EXHIBIT No. 25.

Statement of differences—Voucher No. 8, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Leroy G. Lesley	Captain	$771.58	$766.17		$5.41	Entitled to $40 per month pay proper, $10 per month for command of company, $2.50 per month servant's clothing, and $1 per day subsistence prior to July 1, and $60 per month pay proper; and $1.50 per day subsistence (with other allowances as above) after July 1. Also overpaid 2 days in time; overpayments exceed short payments.
2	Streaty Parker	First lieutenant	718.24	660.84		57.40	Entitled to only $30 per month prior to July 1; entitled to $1.50 per day for subsistence after July 1; entitled to only $2.50 per month servant's clothing. Overpaid 2 days in time; overpayments exceed short payments.
3	Henry A. Crane	Second lieutenant	691.58	634.50		57.08	Entitled to only $25 per month prior to July 1. Overpayments exceed short payments.
4	Sheord B. McGuire	Sergeant	191.36	189.47		1.87	Overpaid 2 days' pay proper; 1 day for use of horse, and 14 cents in clothing.
5	Owen Blount	do	175.36	173.55		1.87	Overpaid 2 days' pay proper; 1 day for use of horse, and 28 cents in clothing.
6	George W. Price	do	175.36	173.55		1.87	Do.
7	Robert R. Shepherd	do	175.36	173.55		1.87	Do.
8	John Johnson	Corporal	147.32	144.99		2.33	Overpaid 2 days' pay proper; 1 day for use of horse, and 46 cents in clothing.
9	John T. Lesley	do	153.98	152.41		1.57	Overpaid 2 days' pay proper; 1 day for use of horse, and 31 cents in clothing.
10	John Davidson	do	153.98	152.41		1.57	Do.
11	Antoine Wordehoff	do	146.78	146.78			Overpaid in time and clothing, but short paid in pay proper. Short payments exceed overpayments.
12	James D. Haygood	Bugler	168.90	147.42		21.48	Overpaid 2 days' pay proper—1 day for use of horse, 28 cents in clothing, and $20 error in extension.
13	Emory L. Lesley	do	143.06	143.06			Same as No. 11.
14	Freeman Caruthers	F. and B	145.56	141.65			Overpaid difference between private and F. and B. Infantry not entitled to F. and B.; also 2 days' pay proper—1 day for use of horse, and 28 cents clothing.
15	Altman, Lewis	Private	143.06	141.65		3.91	Overpaid 73 cents pay proper—1 day for use of horse, and 19 cents in clothing.
16	Alderman, James	do	143.06	141.65		1.41	Do.
17	Booth, Richard	do	143.06	141.65		1.41	Do.
18	Blount, Redding	do	143.06	141.65		1.41	Do.
19	Blount, Redding R	do	143.06	141.65		1.41	Do.
20	Blount, Nathan	do	143.06	141.65		1.41	Do.
21	Blount, Jacob J	do	143.06	141.65		1.41	Do.
22	Barton, John W	do	143.06		$141.65	1.41	Do.
23	Boney, David J. W	do	143.06	141.65		1.41	Do.
24	Ballard, William C	do	143.06	141.65		1.41	Do.
25	Clark, Elias D	do	143.06	141.65		1.41	Do.
26	Clark, John J	do	143.06	141.65		1.41	Do.

27	Campbell, William N	do	143.06	141.65		1.41	Do.
28	Campbell, William L	do	147.66	146.21		1.45	Overpaid 86 cents pay proper—1 day for use of horse, and 19 cents clothing.
29	Drew, Octavius	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse, and 28 cents in clothing.
30	Dyches, Wilson	do	143.06	141.65		1.41	Do.
31	Eady, Joseph	do	143.06	141.65		1.41	Do.
32	Fuel, John E	do	143.06		141.65	1.41	Do.
33	Ferguson, Francis	do	143.06	141.65		1.41	Do.
34	Gunther, John B	do	124.26	123.65		.61	Overpaid 73 cents pay and 28 cents clothing, less 40 cents short paid for use of horse.
35	Gay, James L	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse and 28 cents in clothing.
36	Hague, Gideon	do	143.06	141.65		1.41	Do.
37	Handcock, James F	do	143.06	141.65		1.41	Do.
38	Handcock, Martin J	do	143.06	141.65		1.41	Do.
39	Handcock, Jordan	do	143.06		141.65	1.41	Do.
40	Halliday, Edward B	do	143.06	141.65		1.41	Do.
41	Hill, Henry R	do	143.06	141.65		1.41	Do.
42	Hickey, John E	do	143.06	141.65		1.41	Do.
43	Hutchinson, Joseph	do	143.06	141.65		1.41	Do.
44	Hogan, James B	do	143.06	141.65		1.41	Do.
45	Hambleton, George	do	143.06	141.65		1.41	Do.
46	Long, Levi	do	143.06	141.65		1.41	Do.
47	Long, Nathaniel	do	143.06	141.65		1.41	Do.
48	Long, James T	do	143.06	141.65		1.41	Do.
49	Lockhart, Joel L	do	143.06	141.65		1.41	Do.
50	Lang, Oswald	do	143.06	141.65		1.41	Do.
51	Main, David	do	143.06	141.65		1.41	Do.
52	Mizell, Joseph	do	143.06	141.65		1.41	Do.
53	Mizell, Enoch	do	143.06	141.65		1.41	Do.
54	Manley, James M	do	143.06	141.65		1.41	Do.
55	Nobles, Alfred	do	143.06	141.65		1.41	Do.
56	Newberry, Hiram	do	143.06		141.65	1.41	Do.
57	Oats, John C	do	143.06	141.65		1.41	Do.
58	Ormond, Alexander W	do	143.06	141.65		1.41	Do.
59	Paget, William W	do	143.06	86.45		56.61	Horse killed Apr. 3, 1856. No evidence that he ever remounted himself. Also, overpaid 73 cents pay proper, and 28 cents in clothing.
60	Rogers, William P	do	143.06	141.65		1.41	Overpaid 73 cents pay proper—1 day for use of horse, and 28 cents in clothing.
61	Rawles, James W	do	143.06	141.65		1.41	Do.
62	Sherley, Thomas	do	143.06	141.65		1.41	Do.
63	Seward, Henry S	do	143.06	141.65		1.41	Do.
64	Seward, Zachariah, sr	do	143.06	141.65		1.41	Do.
65	Seward, Zachariah	do	143.06	85.65		57.41	Horse killed Apr. 1, 1856. No evidence that he remounted himself. Also, overpaid 73 cents in pay proper, and 28 cents in clothing.
66	Seward, Felix	do	143.06	141.65		1.41	Overpaid 75 cents pay proper—1 day for use of horse, and 28 cents in clothing.
67	Seals, Cornelius	do	143.06	141.65		1.41	Do.
68	Summerall, David	do	143.06	141.65		1.41	Do.
69	Vicker, John	do	143.06	141.65		1.41	Do.
70	Varn, William B	do	143.06	141.65		1.41	Do.

Statement of differences—Voucher No. 8, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
71	Varn, Josiah	Private	$143.06	$141.65		$1.41	Overpaid 75 cents pay proper—1 day for use of horse, and 28 cents in clothing.
72	Whidden, James	do	143.06	141.65		1.41	Do.
73	Whidden, Noah	do	143.06	141.65		1.41	Do.
74	Whidden, Willoughby, jr.	do	143.06	141.65		1.41	Do.
75	Willingham, William H	do	143.06	141.65		1.41	Do.
76	Willingham, William J	do	143.06	141.65		1.41	Do.
77	Wiggins, Andrew	do	143.06	141.65		1.41	Do.
78	Wiggins, James R	do	143.06		$141.65	1.41	Do.
79	Williams, William H	do	143.06	141.65		1.41	Do.
80	White, David	do	143.06	141.65		1.41	Do.
81	Whitehurst, David S	do	143.06	141.65		1.41	Do.
82	Whitehurst, John	do	143.06	141.65		1.41	Do.
83	Whitehurst, Robert T	do	143.06	141.65		1.41	Do.
84	Carney, John	do	32.66		31.51	1.15	Overpaid 73 cents pay proper—1 day for use of horse, and 2 cents in clothing.
85	Mitchell, Thomas	do	110.83	110.14		.69	Overpaid 73 cents pay, less 4 cents clothing short pay.
86	Samuel S. Harris	Corporal	153.93		149.07	.42	Overpaid 38 cents clothing and 1 day in horse pay, less 36 cents short paid in pay proper. This man is not borne on the muster roll of his company.
			14,108.34	12,851.47	888.83	368.04	

This company was mustered into United States service August 20, 1856; therefore not entitled to pay for that day on this roll.

EXHIBIT No. 26.

Statement of differences—Voucher No. 9, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	A. J. T. Wright	Captain	$96.43	$82.33		$14.10	Entitled only to $40 per month pay proper, and $2.50 per month for servant's clothing.
2	F. Raulerson	First lieutenant	89.76	75.66		14.10	Entitled only to $30 per month pay proper, and $2.50 per month for servant's clothing.
3	Donald Tompkins	First sergeant	23.77	23.77			
4	R. H. Charles	Sergeant	21.77	21.77			
5	William O. Tison	Corporal	19.10	19.10			
6	Robert J. Bigelow	do	19.10		$19.10		
7	Henry Herrington	Bugler	18.44	18.44			
8	William Bryant	Farrier	19.76	17.77		1.99	Overpaid difference between pay of private and farrier; infantry not entitled to farrier.
9	I. W. M. Tompkins	Private	17.77	17.77			
10	Eliah R. Tucker	do	17.77		17.77		Muster rolls show him appointed first sergeant May 13, but is paid only as private.
11	Thomas J. Greene	do	17.77	17.77			
12	John Crews	do	17.77		17.77		
13	Augustus Hall	do	17.77	17.77			Muster rolls show him appointed second corporal May 13, but is paid only as private.
14	James Curry	do	17.77	17.77			
15	Clayton Hargroves	do	17.77	17.77			
16	George Durrance	do	17.77		17.77		
17	Cicero S. Blackshear	do	17.77	17.77			
18	Daniel A. Morgan	do	17.77	17.77			Muster rolls show him appointed second sergeant May 13, but is paid only as private.
19	A. H. Martin	do	17.77	17.77			
20	William Yearty	do	17.77	17.77			
21	John Miller	do	17.77	17.77			
22	George W. Smith	do	17.77		17.77		
23	James S. Turner	do	17.77	17.77			
			574.68	454.31	90.18	30.19	

The muster of this company is not certified by the State agent.

EXHIBIT No. 27.

Statement of differences—Voucher No. 10, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	A. J. T. Wright	Captain	$361.65	$361.65			Entitled to $40 pay proper, $10 per month for command of company, and $1 per day for subsistence prior to July 1, 1856, and to $60 per month pay proper, $10 for command of company, and $1.50 per day for subsistence since July 1; servant's clothing $2.50 per month for whole time; overpaid one day in time; short payments exceed overpayments.
2	A. B. Bexley	First lieutenant	314.19	293.18		$21.01	$30 pay proper prior to July 1, 1856, $50 after July 1; subsistence and servant's clothing as above; overpayments exceed short payments.
3	W. J. Mickler	Second lieutenant	501.69	501.69			$25 pay proper prior to July 1, $45 after July 1; subsistence and servant's clothing as above; short paid.
4	Donald Tompkins	First sergeant	85.48	85.48			Overpaid 67 cents pay; short paid 20 cents clothing and short paid as first lieutenant $28.90 (see No. 83); short payments exceed overpayments.
5	A. H. Martin	Sergeant	133.63	133.63			
6	William O. Tisin	do	146.23	146.23			
7	Thomas Sweeney	do	131.83	131.83			
8	Augustus Hall	Corporal	128.30	128.30			
9	Thomas I. Greene	do	128.30	128.30			
10	William Fraser	do	128.30	128.30			
11	Simeon Tisin	do	128.30	128.30			
12	L. M. G. Wright	Bugler	124.70	124.28		.42	Overpaid $1.20 pay and 2 cents clothing, less 80 cents short paid for use of horse.
13	William Bryant	Farrier	132.80	119.44		13.36	Infantry not entitled to farrier; overpaid $13.73, difference between private and farrier, and 48 cents clothing, less 80 cents short paid for use of horse.
14	Alford, J. B. L	Private	119.18		$119.18		
15	Blackshear, C. S	do	119.18	119.18			
16	Biglow, R. I	do	43.06		42.18	.88	Overpaid 73 cents pay and 40 cents for use of horse, less 25 cents short paid in clothing.
17	Bryan, John M	do	80.65		80.65		
18	Brown, B. I	do	104.65	104.65			
19	Beaseley, Isaiah	do	89.65		89.65		
20	Brown, J. L	do	89.65		89.65		
21	Bryan, William P	do	89.65		89.65		
22	Brannin, Alvin	do	89.65	89.65			
23	Benton, David	do	119.18		119.18		
24	Charles. R. H	do	119.18	119.18			
25	Cannon, James	do	119.18		119.18		
26	Durrance, George	do	119.18		119.18		
27	Fraser, John C	do	101.15	101.15			
28	Goodbred, William S	do	114.98	111.74		3.24	Overpaid $6.96 pay and $6.40 for use of horse, less $1.82 short paid in clothing, and $8.30 short paid as second lieutenant. (See No. 34.)
29	Garrett, Chamel	do	103.65	103.65			

30	Griffis, William H	do	89.65	89.65			
31	Herbert, George S	do	148.43	119.44	28.99		Extra-duty pay is suspended for evidence that the extra duty is of the nature contemplated in the act of Congress, less 26 cents short paid in pay.
32	Harriet, Joseph	do	89.65	89.65			
33	Hunter, Henry	do	89.65	89.65			
34	Hunter, Archibald	do	89.65	89.65			
35	Hardee, William B	do	80.70	80.70			
36	Hargroves, Clayton	do	119.18	119.18			
37	Hamilton, John G	do	55.05	55.05			
38	Ivey, James L	do	89.65	89.65			
39	Jeffreys, Joseph A	do	115.40	90.52		24.82	Extra pay is disallowed; muster roll does not show him entitled; $25.75, less 93 cents short, paid in pay, clothing, and use of horse.
40	Johns, James B	do	89.65	89.65			
41	Jarrard, David, jr	do	89.65	89.65			
42	Keene, John	do	82.10	82.10			
43	Keene, Noah	do	82.10	82.10			
44	Keene, Thomas	do	82.10	82.10			
45	Keene, Harris	do	68.18		68.18		
46	Keene, Humphrey	do	68.18	68.18			
47	Keene, Randall	do	55.05	55.05			
48	Lemack, James H	do	119.18		119.18		
49	Miller, John	do	135.43	119.44	15.99		Extra-duty pay suspended, same as 31; $16.25, less 28 cents short, paid in pay and clothing.
50	Mickler, John H., jr	do	119.18	119.18			
51	McClure, John C	do	89.65	89.65			
52	Mickler, Peter S	do	55.05	55.05			
53	Mickler, John H., sr	do	55.05	55.05			
54	Ogleeby, Josiah	do	40.00	39.52		.48	Overpaid one day in pay and clothing.
55	Howell, Lewis	do	119.18	119.18			
56	Roberts, R. L	do	89.65	89.65			
57	Rewis, R. D	do	71.28		71.28		
58	Rewis, Obadiah	do	89.65	89.65			
59	Ravels, William	do	89.65	89.65			
60	Smith, George W	do	119.18		119.18		
61	Stanand, Dempsey	do	119.18		119.18		
62	Stuggs, Lorenzo D	do	119.18	119.18			
63	Smith, Henry T	do	65.42	65.42			
64	Slaughter, C. L	do	119.18	119.18			
65	Slaughter, Moses H	do	119.18	119.18			
66	Stapleton, Francis	do	121.65		116.33	5.32	Extra-duty pay overestimated $5.32; $25.72 extra-duty pay suspended. (See No. 31.)
67	Summerall, Henry	do	89.65	89.65			
68	Slaughter, William H	do	89.65		89.65		
69	Smith, James W. W	do	89.65	89.65			
70	Smith, John	do	89.65	89.65			
71	Turner, James S	do	119.18	13.73		105.45	Entitled to pay only to nclude June 2; Elisha Gibson, a substitute, is entitled to and should receipt for the balance.
72	Turner, C. C	do	119.18	119.18			
73	Wright, Levi	do	119.18		119.18		
74	Wilkerson, Robert	do	89.65	89.65			
75	Wilkerson, D. P	do	89.65	89.65			

Statement of differences—Voucher No. 10, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
76	Walker, James R.	Private	$71.28		$71.28		Roll purports to have been signed by the soldier, who, it is shown, died September 9, 1856.
77	Warner, Francis	do	55.45	$55.45			
78	Yearty, William	do	40.00	39.52		$0.48	Overpaid one day in pay and clothing.
79	Simons, John	do	150.18		119.44	30.74	Extra-duty pay disallowed (see No. 39); less 36 cents short paid in pay.
80	Tompkins, J. W. M	do	119.18	119.18			
81	Tyre, Benjamin	do	89.65	89.65			
82	Parker, Benjamin	do	89.65	89.65			
83	Donald Tompkins	First lieutenant	282.60	282.60			Short paid as first lieutenant $28.90; overpaid as first sergeant 47 cents. (See No. 4.)
84	W. S. Goodbread	Second lieutenant	77.80	77.80			Short paid as second lieutenant $8.30; overpaid as private $11.54. (See No. 28.)
85	Henry T. Smith	Captain	289.32	289.32			
			9,667.71	7,535.15	1,956.36	206.20	

The muster roll of this company is not certified by the State agent.

EXHIBIT No. 28.

Statement of differences—Voucher No. 11, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	John McNeil	Lieutenant	$264.82	$225.56		$29.26	Was only second lieutenant as per certificate to muster roll, but is paid as first lieutenant. Only entitled to $2.50 per month, servant's clothing. Short paid 50 cents per day in subsistence after July 1. Overpayments exceed short payments. Allowed pay of second lieutenant.
2	William M. Garrison	Sergeant	70.23	69.52		.71	Overpaid 66 cents pay and 5 cents clothing.
3	William I. Hart	do	64.33		$63.67	.66	Overpaid one day in pay and clothing.
4	William Brown	Corporal	56.46	55.90		.56	Do.
5	Robert E. Osborn	do	56.46	55.90		.56	Do.
6	Alexander, Albert I	Private	52.43	51.96		.47	Do.
7	Alexander, James A	do	52.43	51.96		.47	Do.
8	Bayet, Edward	do	52.43		51.96	.47	Do.
9	Bassett, Josiah B	do	52.43	51.96		.47	Do.
10	Bassett, John F	do	52.43	51.96		.47	Do.
11	Bassett, John	do	52.43	51.96		.47	Do.
12	Bankwright, Hilliard P	do	52.43	51.96		.47	Do.
13	Bankwright, Wade E	do	52.43	51.96		.47	Do.
14	Colding, Samuel B	do	52.43	51.96		.47	Do.
15	Colding, James	do	26.66	26.66			Do.
16	Cray, Scott W	do	52.43	51.96		.47	Do.
17	Enicks, Andrew S	do	52.43		51.96	.47	Do.
18	Hancock, Henry	do	52.43	51.96		.47	Do.
19	Hancock, James M. J	do	52.43	51.96		.47	Do.
20	Hope, Samuel E	do	52.43	51.96		.47	Do.
21	Hope, David	do	52.43	51.96		147	Do.
22	Johnson, Charles N	do	52.43	51.96		.47	Do.
23	Johnson, William M	do	52.43	51.96		.57	Do.
24	Johnson, Washington	do	52.43	51.96		.47	Do.
25	Johnson, Jesse M	do	52.43	51.96		.47	Do.
26	McNeil, John, jr	do	52.43	51.96		.47	Do.
27	Mizel, Joshua, jr	do	52.43	51.96		.47	Do.
28	McNatt, John B	do	52.43	51.96		.47	Do.
29	McGeachy, Alex. P	do	52.43	51.96		.47	Do.
30	Pearce, Samuel I	do	52.43	51.96		.47	Do.
31	Scott, Alexander	do	52.43	51.96		.47	Do.
32	Wiggins, Richard C	do	52.43	51.96		.47	Do.
33	Wells, Jacob	do	52.43	51.96		.47	Do.
34	Whitehurst, John A	do	42.43	51.96		.47	Do.
35	Whitehurst, Levi S	do	52.43	51.96		.47	Do.
			2,059.45	1,836.46	167.59	55.38	
						.02	Amount overcarried to abstract.
			2,059.45	1,836.46	167.59	55.40	

EXHIBIT No. 29.

Statement of differences—Voucher No. 12, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Asa Stewart	Captain	$652.77	$652.77			Entitled to $40 per month pay proper, $10 for command of company, $1 per day subsistence prior to July 1; and $60 per month pay proper, $10 for command of company, $1.50 per day subsistence since July 1, and to only $2.50 per month servant's clothing for the whole time. Overpaid one day in time; short payments exceed overpayments.
2	Franklin Raulerson	First lieutenant	608.10	608.10			$30 per month prior to July 1 and $50 per month subsequent to July 1; other remarks same as No. 1 (except for command of company).
3	N. Raulerson	Second lieutenant	586.19	586.19			$25 per month prior to July 1, $45 per month after July 1; other remarks same as No 2.
4	E. R. Tucker	First sergeant	159.63		$159.63		
5	William Raulerson	Sergeant	146.23		146.23		
6	I. S. Emanuel	do	146.23		146.23		
7	D. L. Duke	do	146.23	146.23			
8	J. P. Humphreys	Corporal	128.25		128.25		
9	G. F. Duke	do	128.25		128.25		
10	C. F. Bynum	do	128.25		128.25		
11	Jones Curry	do	128.25	128.25			
12	William Merrit	Musician	119.27	119.27			
13	William J. Tucker	Bugler	124.00	124.00			
14	Church McCoy	Farrier	132.56	110.44		$13.12	Overpaid difference between pay of private and farrier $13.75, and 17 cents in clothing, less 80 cents short paid for use of horse; infantry not entitled to a farrier.
15	Alexander, John	Private	34.75		34.17	.58	Overpaid in pay and clothing.
16	Arnold, F. D	do	71.85		71.85		
17	Atkinson, M	do	71.85	71.85			
18	Altman, David	do	71.85		71.85		
19	Baker, A. A	do	71.85		71.85		
20	Baker, William J	do	71.85		71.85		
21	Baker, John F	do	71.85		71.85		
22	Bennett, William	do	71.85	71.85			
23	Byrd, William	do	98.50	98.50			
24	Braunin, H. M	do	119.27		119.27		
25	Brown, John C	do	119.27	119.27			
26	Brown, Jeremiah	do	71.85	71.85			
27	Brooks, Thomas	do	98.50	98.50			
28	Bush, William	do	71.85		71.85		
29	Chesser, Thomas	do	98.50	98.50			
30	Chesser, William H	do	98.50	98.50			
31	Compton, Thomas	do	119.27		119.27		
32	Crews, John	do	119.27		119.27		
33	Curry, Joel	do	119.27	119.27			
34	Cobb N. S	do	71.85		71.85		

35	Davis, Thomas	do	98.50	98.50			
36	Dean, Thadeus R	do	98.50	98.50			
37	Ellis, Thomas C	do	71.85	71.85			
38	Fountain, James J	do	71.85		71.85		
39	Fryerson, J. J	do	71.85	71.85			
40	Gillet, Anderson	do	119.27	119.27			
41	Gillet, J. J	do	119.27	119.27			
42	Giddens, Patrick	do	71.85		71.85		
43	Hires, D. O	do	98.50		98.50		
44	Hires, George A	do	98.50	98.50			
45	Hagen-, M. D	do	119.27	119.27			
46	Hagens, William H	do	119.27		119.27		
47	Harrington, Jasper	do	98.50	98.50			
48	Hunter, Elijah	do	71.85		71.85		
49	Ivey, M. J	do	98.50	98.50			
50	Ivey, Robert	do	119.27		119.27		
51	Johnston, John	do	98.50	98.50			
52	Kite, Benjamin	do	119.27	119.27			
53	Law, Thomas D	do	71.85	71.85			
54	Law, Josiah B	do	71.85	71.85			
55	Morgan, D. A	do	119.27	119.27			
56	Morgan, Levin	do	119.27		119.27		
57	Martin, Hiram	do	119.27		119.27		
58	Medlin, W. R	do	98.50	98.50			
59	Medlin, John	do	98.50		98.50		
60	Munroe, Neil	do	71.85		71.85		
61	McGowen, Joseph	do	71.85	71.85			
62	McCaskell, P. H	do	71.85		71.85		
63	Nichols, R. G	do	119.27	119.27			
64	Nobles, Saunders	do	64.25	63.03		1.22	Overpaid $1.46 pay and 56 cents clothing, less 80 cents short paid for use of horse.
65	Patrick, Thomas	do	98.50	98.50			
66	Peacock, Isam	do	71.85	71.85			
67	Phelps, I. P	do	119.27	119.27			
68	Peterson, John L	do	71.85		71.85		
69	Ranlerson, Moses	do	119.27		119.27		
70	Ranlerson, Hardee	do	119.27	119.27			
71	Ranlerson, John G	do	119.27	119.27			
72	Roberts, William	do	119.27	119.27			
73	Rogers, Julius D	do	119.27		119.27		
74	Sistrunk, H. J	do	98.50	98.59			
75	Sistrunk, James S	do	98.50	98.50			
76	Sistrunk, Gasper	do	98.50	98.50			
77	Sistrunk, Thomas W	do	98.50	98.50			
78	Sistrunk, D. M	do	98.50	98.50			
79	Strange, Peter	do	71.85		71.85		
80	Sutton, John A	do	71.85	71.85			
81	Snellgrone, George M	do	119.27	119.27			
82	Summerall, Allen	do	98.50		98.50		
83	Shirley, Jonathan	do	98.50	98.50			
84	Shirley, Jackson	do	98.59		98.50		

Statement of differences—Voucher No. 12, Abstract A—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
85	Smith, James H	Private	$64.25	$63.03		$1.22	Overpaid $1.46 pay and 56 cents clothing, less 80 cents short paid for use of horse.
86	Smith, Milton	do	64.25	63.03		1.22	Do.
87	Smith, Hamilton	do	64.25	63.03		1.22	Do.
88	Shepherd, Miles	do	71.85	71.85			
89	Tooke, James T	do	119.27		$119.27		
90	Thomas, James	do	98.50		98.50		
91	Willis, Joseph J	do	98.50	98.50			
92	West, Elijah	do	119.27		119.27		
93	Walker, Eliah	do	71.85	71.85			
94	Walker, Isham	do	71.85	71.85			
95	Wood, Burr	do	71.85	71.85			
96	Wilkerson, Joseph	do	71.85	71.85			
97	Wall, William W	do	71.85	71.85			
98	Wall, David H	do	71.85	71.85			
99	Whitehurst, D. S	do	71.85		71.85		
100	Whitehurst, Levi S	do	71.85	71.85			
101	Whitehurst, Maury	do	71.85		71.85		
102	Wood, John	do	71.85		71.85		
103	Peterson, Timothy	do	71.85	71.85			
104	Lea, G. W	do	71.85	71.85			
			11,510.89	7,595.38	3,896.98	18.58	

Men generally overpaid one day in pay proper but short pay in pay for use of horse. Short payments exceed overpayments, except where otherwise indicated in remarks. The muster roll is not signed by the State agent.

EXHIBIT No. 30.

Statement of differences—Voucher No. 13, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed	Suspended.	Disallowed.	Remarks.
1	Robert Youngblood	First lieutenant	$601.56	$181.70	$419.86		Entitled to $30 per month prior to July 1, and to $50 per month after July 1; 20 cents per ration ($1 per day) prior to July 1, and 30 cents per ration ($1.50 per day) after July 1. Time overstated, 1 day; servant's pay, $2.50 per month; short payments exceed overpayments. Personal allowances receipted for by attorney. Servant's allowances receipted for by officer in person.
2	Asa Clark, jr	Second lieutenant.	418.81	312.68		$106.13	Entitled to $25 per month prior to July 1, and $45 per month since July 1; 20 cents per ration prior to July 1; 30 cents per ration since July 1, and $2.50 per month servant's pay. Time overstated, 2 days; and error in calculation of $86.82.
3	A. H. Harrison	Sergeant	159.63	159.63			
4	Jerome N. Jones	do	146.23	146.23			
5	Richard Buck	do	146.23	146.23			
6	Jackson Gilbert	do	146.23		146.23		Receipted by George A. Hivers; no authority.
7	George Sharp	Corporal	128.25	128 25			
8	George Dyess	do	128.25	128 25			
9	William R. Williamson	do	128.25	128.25			
10	James Wimble	do	128.25	128.25			
11	Ransom Cason	Private	119.27	119 27			
12	William Holbrook	do	119.27	119.27			
13	Richard W. Parker	do	119.27	119.27			
14	Berry Byrd	do	119.27	119.27			
15	George Lewis	do	119.27		119.27		
16	Henry Benton	do	119.27	119.27			
17	John Hazle	do	119.27	119.27			
18	Lewis Carlton	do	119.27	119.27			
19	James Merre	do	119.27	119.27			
20	James Kirtlin	do	119.27	119.27			
21	J. C. Kilbrew	do	119.27	119.27			
22	John Jones	do	119.27	119.27			
23	John W. Adkins	do	89 65	89.65			
24	Jerry Johns	do	89.65	89.65			
25	Levi M. C. Johns	do	89.65		89.65		
26	A. I. Tyner	do	89.65	89.65			
27	W. F. Barry	do	89.65	89.65			
28	John Hamilton	do	89.65	89.65			
29	Francis Sanchez	do	89.65	89.65			
30	Cornelius Johns	do	89 65	89.65			
31	Burt Johns	do	89.65	89.65			
32	F. Shepard	do	89.65	89 65			
33	James L. Page	do	89.65	89.65			
34	James H. Martin	do	89.65	89.65			

Statement of differences—Voucher No. 13, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
35	John E. Clark	Private	$89.65		$89.65		
36	James Turner	do	89.65	$89.65			
	Henry Schlaird	do					Not paid.
37	W. P. Dennison	do	89.65		89.65		
38	J. W. Denison	do	89.65		89.65		
39	William Kelly	do	89.65	89.65			
40	Isaiah Thomas	do	89.65		89.65		
41	Ezekiel Thomas	do	89.65		89.65		
42	James M. Thomas	do	89.65		89.65		
43	James T. Weeks	do	89.65		89.65		
44	S. M. Bridges	do	89.65	89.65			
45	R. Morrison	do	89.65		89.65		
46	Binkey Stokes	do	89.65		89.65		
47	John Adams	do	89.65		89.65		
			5,804.18	4,026.54	1,671.51	$106.13	

Muster roll is not certified by the State agent.

EXHIBIT No. 31.

Statement of differences—Voucher No. 14, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Enoch Daniels	Lieutenant	$229.07		$218.08	$10.99	Overpaid $20.67 pay proper and $2.12 servant's clothing; short paid $11 subsistence and 80 cents for use of horse.
2	S. Worthington	Private	45.47	$45.47			Overpaid 13 cents in clothing, but short paid 40 cents for use of horse.
3	S. Cowden	do	45.47	45.47			Do.
4	Robert Watterson	do	45.47	45.47			Do.
5	Stephen Hogans	do	47.72	45.74		1.98	Overpaid 13 cents in clothing, short paid 40 cents for use of horse. Extra pay disallowed. Muster roll fails to show that he was on extra duty.
6	Benjamin Smith	do	45.47	45.47			Overpaid 13 cents in clothing, but short paid 40 cents for use of horse.
7	Aaron Smith	do	45.47	45.47			Do.
8	Hamilton Smith	do	45.47	45.47			Do.
9	Joseph Wilkinson	do	35.64	35.64			Do.
10	Alfred Mooney	do	45.47	45.47			Do.
11	Jasper Newson	do	45.47	45.47			Do.
12	Saunders Nobles	do	45.47	45.47			Do.
13	James Starlin	do	45.47	45.47			Do.
14	Jeremiah Brown	do	45.47	45.47			Do.
15	William Gore	do	45.47	45.47			Do.
16	Samuel Hudson, jr	do	45.47		45.47		Do.
17	G. Worthington	do	45.47	45.47			Do.
18	E. D. Hogans	do	45.47		45.47		Do.
19	Jessup Hogans	do	45.47	45.47			Do.
20	James H. Smith	do	45.47	45.47			Do.
21	Lewis Wilkerson	do	45.47		45.47		Do.
22	F. Stapleton	do	45.47		45.47		Do.
23	James W. Daniels	do	45.47		45.47		Do.
24	James G. Daniels	do	45.47	45.47			Do.
25	L. A. Walker	do	45.47	45.47			Do.
26	L. F. Walker	do	45.47		45.47		Do.
27	William A. Hill	do	45.47	45.47			Do.
28	William P. Smith	do	45.47		45.47		Do.
29	Samuel Hudson, sr	do	45.47		45.47		Do.
30	Hamilton Hudson	do	45.47		45.47		Do.
31	Garret Hudson	do	45.47	45.47			Do.
32	Hugh Morrison	do	45.47	45.47			Do.
33	Isaac Ostein	do	45.47		45.47		Do.
34	O. P. H. Kirkland	do	45.47	45.47			Do.
35	James Hudson	do	45.47		45.47		Do.
36	W. F. Smith	do	45.47	45.47			Do.

Statement of differences—Voucher No. 14, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
37	John R. Hatcher	Private	$45.47	$45.47			Overpaid 13 cents in clothing, but short paid 30 cents for use of horse.
38	Lewis Daniels	do	.47		$45.47		Do.
39	Willis Wilkinson	do	.47	45.47			Do.
40	Benjamin Lane	do	.47		45 47		Do.
			1,994.82	1,172.66	809.19	$13.97	

The officer commanding this detachment does not sign the certificate at foot of pay roll.
The State agent does not certify to the muster roll, and the official character of the justice of the peace who does certify is not authenticated.

EXHIBIT NO. 32.

Statement of differences—Voucher No. 15, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	William B. Hardie	Sargeant	$22.95	$22.95			
2	R. Baron	Private	14.29	14.19		$10	Overpaid in clothing 10 cents.
3	W. Lemacks	do	14.29	14.19		10	Do.
4	J. Lemacks	do	14.29	14.19		10	Do.
5	N. Hall	do	14.29	14.19		10	Do.
6	J. Most	do	14.29	14.19		10	Do.
7	Lorenzo Suggs	do	14.29	14.19		10	Do.
8	A. J. Moore	do	14.29	14.19		10	Do.
9	W. Cason	do	14.29	14.19		10	Do.
10	N. Cason	do	14.29	14.19		10	Do.
11	J. Locker	do	14.29	14.19		10	Do.
12	G. Crooms	do	14.29		$14.19	10	Do.
	W. Thomas	do					Not claimed.
			180.14	164.85	14.19	1.10	

No muster roll, certificate of State agent, or other evidence of service.

EXHIBIT No. 33.

Statement of differences—Voucher No. 16, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Alexander Bell	Captain	$338.41	$338.41			Entitled to $40 per month for pay proper and $10 per month for command of company prior to July 1, and $60 per month pay proper and $10 per month for command of company after July 1, and to only $2.50 per month for servant's clothing for whole time. Short paid 50 cents per day subsistence after July 1. Short payments exceed overpayments.
2	John V. Stewart	First lieutenant.	306.07	306.07			$30 per month pay proper prior to July 1; $50 per month after July 1 $2.50 per month servant's clothing for whole time. Short paid in subsistence 50 cents per day after July 1. Short payments exceed over payments.
3	A. W. Miller	Second lieutenant.	289.90	289.00			$25 per month pay proper prior to July 1; $45 per month after July 1. Other remarks same as first lieutenant.
4	William Callahan	First sergeant	75.86		$75.86		
5	Francis B. Rass	Sergeant	66.16	66.16			
...	Richard Watts	do					
6	James D. Foster	do	66.16		66.16		
...	Theodore Lamb	Corporal					
7	Isaac Hatch	do	53.13		53.13		
8	D. C. Hasbrouch	do	53.13	53.13			
9	Benjamin Walker	do	53.13		53.13		
10	M. P. Allen	Private	46.56		46.56		
11	David Morrow	do	46.56	46.56			
12	Noah P. Suggs	do	46.56		46.56		
13	Noah Cason	do	46.56		46.56		
14	George P. Crooms	do	46.56		46.56		
15	James P. allahan	do	46.56		46.56		
16	Samuel Callahan	do	46.56		46.56		
17	R. B. Forbes	do	46.56		46.56		Roll signed by attorney for R. B. Thomas, the captain certifying that there is no such man as Forbes in his company.
18	Paul Hatch	do	46.56		46.56		
19	Silas Hatch	do	46.56		46.56		
20	J. C. Hamilton	do	46.56	45.56			
21	William Lemacks	do	46.56	46.56			
22	Thomas Suggs	do	46.56		46.56		
23	Mitchel Lamb	do	46.56		46.56		
24	Mitchel Register	do	46.56	46.56			
25	J. T. Lee	do	46.56		46.56		
26	Jesse Lee	do	46.56		46.56		
27	H. F. Henderson	do	46.56		46.56		
28	James H. Keith	do	46.56	46.56			
29	Alfred Black	do	46.56		46.56		
30	Thomas Ferguson	do	46.56	46.56			
31	Archabal Hurst	do	46.56		46.56		

32	Abner Doliff	do	82.16		47.42	$34.74	$35.60 extra-duty pay not allowed; muster roll does not show him on extra duty; less 86 cents short paid in clothing.
33	Patrick Hagan	do	78.56		47.42	31.14	$32 extra-duty pay; same as above; less 86 cents short paid in clothing.
....	William Howell	do					
34	James A. Threete	do	46.56	46.56			
35	Israel Mannin	do	46.56	46.56			
36	Rufus Hines	do	46.56	46.56			
37	H. G. W. Kelly	do	46.56	46.56			
38	Robert W. son	do	46 56	46.56			
39	W. N. Foste	do	46.56		46.56		
40	Jacob Carter	do	46.56	46.56			
41	J. J. Whitefield	do	46.56		46.56		
42	Willey Kelly	do	46.56		46.56		
43	William Hatch	do	46.56	46.56			
44	Simeon Poucher	do	46.56	46.56			
45	Franci. H. Gill	do	46.56	46.56			
46	William Cason	do	46.56		46.56		
47	James Rooks	do	46.56		11.24	35.32	Apprehended from desertion September 8, 1856, and entitled to pay only from that date.
48	James H. Cooper	do	46.56		46.56		
49	George W. Tillman	do	46.56	46.56			
50	Mathew D. Tillman	do	46.56	46.56			
51	M. Miller	do	46.56	46.56			
52	Sevin J. Ellis	do	61.81		61.81		
53	Jacob Davis	do	46.56	32.75		13.81	Pay and clothing for one month, $14.67, less 86 cents short paid in clothing, is disallowed. Muster roll shows him *discharged for one month.*
54	J. D. Frierson	do	46.56	46.56			
55	B. Whitehurst	do	46.56		46.56		
			3,526.62	1,971.08	1,440.53	115.01	

Muster roll is not certified by State agent.

EXHIBIT No. 34.

Statement of differences—Voucher No. 17, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	
1	Thomas Hughey	Captain	$123.20	$123.20			Servant not described or charged for. Time overstated one day, but short paid 50 cents per day. Subsistence after July 1; also short paid for command of company, which is not charged for. Short payments exceed overpayments.
2	Eben F. Tucker[1]	First lieutenant	108.53		$108.53		Time overstated one day, but short paid 50 cents per day in subsistence after July 1. Short payments exceed overpayments. No servant described or charged for.
3	Jackson Poole	Second lieutenant	101.20		101.20		Same as first lieutenant.
4	H. C. Hughes	First sergeant	34.83	34.05		$0.78	Overpaid 66 cents pay and 12 cents clothing. Receipted by H.H.Hughey.
5	B. F. Hull	Sergeant	30.66	29.71		.95	Overpaid 79 cents pay and 16 cents clothing.
	J. W. Mason	do					
	J. B. Poindexter	do					
6	John P. Ellis	Corporal	24.50	23.95		.55	Overpaid 37 cents pay and 18 cents clothing.
7	James M. Brown	do	24.50	23.95		.55	Do.
8	Wiley J. Brannen	do	24.50	23.95		.55	Do.
	W. A. White	do					
9	James H. Hayes	Private	19.53		19.53		Overpaid 36 cents pay and 14 cents clothing, but short paid by error in extension $2. Short paid $1.50.
10	A. H. Brownlee	do	19.53	19.53			Do.
11	Edward Cosgrove	do	19.53	19.53			Do.
	Charles Lynch	do					Do.
	John Edwards	do					Do.
12	Thomas C. Wright	do	19.53	19.53			Do.
	G. W. Corsey	do					Do.
	Richard Allen	do					Do.
	R. E. Randolph	do					Do.
	Edward Lundy	do					Do.
13	Tillman Shaw	do	19.53	19.53			Do.
	William Allison	do					Do.
14	E. W. Clyde	do	19.53	19.53			Do.
15	A. Scarborough	do	19.53	19.53			Do.
16	Thomas Hull	do	19.53	19.53			Do.
17	Jones Curry	do	19.53	19.53			Do.
18	William G House	do	19.53	19.53			Do.
19	J. W. Barnes	do	19.53	19.53			Do.
20	Edward House	do	19.53	19.53			Do.
21	J. W. Harvey	do	19.53	19.53			Do.
22	Russell Curry	do	19.53	19.53			Do.
23	B. H. Hughey	do	19.53	19.53			Do.
	Neil McKeever	do					Do.
24	N. B. Duke	do	19.53	19.53			Do.
			784.40	551.76	229.26	3.38	

[1] Muster roll not certified by State agent.

EXHIBIT No. 35.

Statement of differences—Voucher No. 18, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Edward T. Kendrick	Captain	$399.27	$399.27			Overpaid two days in time, and servant's clothing overpaid. Short paid 50 cents per day in subsistence and $10 per month for command of company is not charged. Short payments exceed overpayments.
2	John Q. Stewart	First lieutenant	371.60	371.60			Same as captain (except for command of company).
3	Thomas B. Law	Second lieutenant	353.93	353.93			Same as first lieutenent.
4	John L. Peterson	First sergeant	98.05		$97.33	$0.72	Overpaid $1.33 pay, less 61 cents short paid in clothing.
5	Harrison Jones	Sergeant	46.04		46.04		
6	Hardie Raulerson	do	89.92		89.16	.76	Overpaid $1.10 pay, less 34 cents short paid in clothing.
7	Lafayette Tillis	do	89.92		89.16	.76	Do.
8	Evan C. McGeachy	Corporal	79.06		78.32	.74	Overpaid 86 cents pay, less 12 cents short paid in clothing.
9	William S. Richardson	do	41.33		41.33		
10	James W. Brewton	do	41.33		41.33		
11	Jeremiah Brown	Bugler	40.46		40.19	.27	Overpaid 40 cents pay, less 13 cents short paid in clothing.
12	William Brown	do	73.05		73.05		
13	Ambrose Woodman	F. and B	80.92		72.81	8.11	Overpaid difference between private and F. and B.; infantry not entitled to F. and B.
14	Allen, William	Private	.86			.86	Paid on United States rolls for the day charged thereon.
15	Alcox, Jesse H	do	40.46		38.63	1.83	Overpaid in pay.
16	Brookes, William T.	do	73.05		72.81	.24	Overpaid in pay 73 cents, less 49 cents short paid in clothing.
17	Brown, Bryant	do	.86			.86	Same as No. 14.
18	Brown, Francis M	do	.86			.86	Do.
19	Basset, John F	do	.86			.86	Do.
20	Dudley, James V. R.	do	40.46		38.63	1.83	Overpaid in pay.
21	Davis, Thomas S.	do	40.46		38.63	1.83	Do.
22	Goodwin, Merida M	do	73.05		72.81	.24	Overpaid in pay 73 cents, less 49 cents short paid in clothing.
23	Haskins, James B. T.	do	73.05		72.81	.24	Do.
24	Howard, Seth	do	73.05		72.81	.24	Do.
25	Hicks, Richard T	do	.86			.86	Same as No. 14.
26	Hall, Jesse	do	40.46		38.63	1.83	Overpaid in pay.
27	Hagan, John	do	40.46		38.63	1.83	Do.
28	Hargrove, Clayton	do	40.46		38.63	1.83	Do.
29	Hogans, Tency	do	.86			.86	Same as No. 14.
30	Ivey, James I	do	73.05		72.81	.24	Overpaid 73 cents pay, less 49 cents short paid in clothing.
31	Johns, James R.	do	73.05		72.81	.24	Do.
32	Jones, Mitchell	do	40.46		38.63	1.83	Overpaid in pay.
33	Kersh, Stephen	do	.86			.86	Same as No. 14.
34	Lenier, Lewis	do	73.05		72.81	.24	Overpaid 73 cents pay, less 49 cents short paid in clothing.
35	Lockhart, Joel L.	do	73.05	72.81		.24	Do.
36	Lloyd, Isham	do	40.46		38.63	1.83	Overpaid in pay.
37	Mansell, Addison	do	73.05		72.81	.24	Same as Nos. 34 and 35.
38	McLeod, William	do	.86			.86	Same as No. 14.
39	Moore, Reiley	do	73.05		72.81	.24	Same as Nos. 34 and 35.
40	Rawlings, Thomas W.	do	.86			.86	Same as No. 14.

Statement of differences—Voucher No. 18, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
41	Snowden, Edward	Private	$73.05		$72.81	$0.24	Same as Nos. 34 and 35.
42	Summerall, Henry	do	73.05	$72.81		.24	Do.
43	Stephens, Isham	do	.86			.86	Same as No. 14.
44	Stephens, Green	do	.86			.86	Do.
45	Thompson, Erasmus M	do	73.05		72.81	.24	Same as Nos. 34 and 35.
46	Whitehurst, Mayberry	do	.86			.86	Same as No. 14.
47	Webb, George	do	.86			.86	Do.
48	Wemble, James	do	40.46		38.63	1.83	Overpaid in pay.
49	Walker, Ezekiel	do	40.46		38.63	1.83	Do.
50	Weeden, Frederick	do	73.05		72.81	.24	Same as Nos. 34 and 35.
			3,243.36	1,270.42	1,928.74	44.20	

Mustered into United States service January 14, 1857, and paid by United States for day of muster.

EXHIBIT NO. 36.

Estimated amount—Voucher No. 19, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	John Addison	First lieutenant			$800.57		Pay and allowance, computed for 6 months, April 8 to October 7, 1856, inclusive.
2	John Conliff	Second lieutenant			770.57		Do.
3	David N. Townsend	First sergeant			215.75		
4	German H. Wyatt	Sergeant			197.51		
5	Cotton B. Rawles	do			197.51		
6	William H. Whitaker	Corporal			173.47		
7	John A. Addison	do			173.47		
8	William H. Vanderipe	do			173.47		
9	William H. Addison	Bugler			167.78		
10	David J. Addison	F. and B			161.22		Computed at private's rates; infantry not entitled to F. and B.
11	Addison, Joel I	Private			161.22		
12	Atgroth, Joseph	do			161.22		
13	Beggs, John	do			161.22		
14	Braden Joseph H	do			161.22		
	Branch Franklin	do					
15	Chairs, Furman	do			161.22		
16	Clark, Henry A	do			161.22		
17	Cole, Richard B	do			161.22		
18	Collins, George W	do			161.22		
	Conliff, James	do					
19	Crawford, Cristopher Q	do			135.44		Computed from May 7, the date on which Nos. 52 to 59, inclusive, were mustered in, to October 7, inclusive.
20	Craig, John	do			161.22		
21	G[name illegible]	do			161.22		
22	Gawero, Michael	do			161.22		
23	Gibson, Jesse G	do			161.22		
24	Gilley, William T	do			161.22		
25	Glazier, Ezekiel	do			161.22		
26	Glazier, James A	do			161.22		
27	Goddard, Asa I	do			111.22		
28	Harrison, William H	do			161.22		
29	Hawkins, Daniel L	do			161.22		
30	Hunter, Nathaniel P	do			161.22		
31	Johnston, William H	do			161.22		
32	Johnston, Levin P	do			161.22		
33	Kennedy, George R	do			161.22		
34	Lee, Edmund	do			161.22		
35	Marr, Edmund	do			161.22		
36	McLean, John	do			161.22		
37	McNeill, Archibald	do			161.22		
38	Mirick, John C	do			161.22		
39	McMillan, Daniel	do			161.22		

Estimated amount—Voucher No. 19, *Abstract A*—Continued.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
40	Matsker, George	Private			$161.22		
41	Oglesby, Benjamin	do			161.22		
42	Oglesby, George W	do			161.22		
43	Peterson, Christian	do			161.22		
44	Peterson, Henry	do			161.22		
45	Rawles, William A. L	do			161.22		
46	Snell, Hampton V	do			161.22		
47	Vanderipe, James	do			161.22		
48	Weaver, Albert	do			161.22		
49	Williams, James G	do			161.22		
50	Woodruff, Joseph	do			161.22		
51	Wyatt, William H	do			161.22		
52	Allen, William Quin	do			135.44		Mustered into service May 7; pay computed to include October 7.
53	Barrow, Reuben T. B	do			135.44		Do.
54	Barrow, John B. W	do			135.44		Do.
55	Dugger, Isaac L	do			135.44		Do.
56	Garpet, Rodolphus	do			135.44		Do.
57	Johnston, Joshua M	do			135.44		Do.
58	Redd, David D	do			135.44		Do.
59	Redd, Isaac A	do			135.44		Do.
60	Smith, Isaiah	do			161.22		
			$10,232.43		10,860.27		

There being no pay roll of this company, pay has been computed for each man borne on the muster roll, except two, who are borne as having received commissions. The received estimated amount exceeds the amount claimed by $627.74; time allowed in computation of roll is six months, April 8 to October 7, inclusive, except where otherwise indicated.

EXHIBIT No. 37.

Estimated amount—Voucher No. 20, Abstract A.

Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.
rker*	Captain			$381.04	
H. Whitaker	First lieutenant			388.91	
H. Wyatt	Second lieutenant			327.57	
ownsend	First sergeant			81.43	
Woodruff	Sergeant			74.57	
Raulerson	do			14.07	
Glazier	Corporal			65.48	
A. L. Rawls	do			65.48	
Vanderipe	do			62.71	
idison	Bugler			63.32	
arliff	F. and B.†			60.65	
, John A	Private			60.85	
, William N	do			60.85	
, Joel J	do			11.54	
Reuben T	do			60.85	
ohn A	do			60.85	
, Isaiah	do			11.54	
, Nathan G	do			11.54	
enry	do			11.54	
ll, James R	do			11.54	
George W	do			60.85	
, Aaron C	do			60.85	
ohn	do			60.85	
, Mathew	do			60.85	
, Henry W	do			11.54	
osiah	do			60.85	
Michael	do			60.85	
William T	do			60.85	
Jesse	do			60.85	
Rodolph	do			60.65	
Asa	do			60.85	
James D	do			60.65	
James	do			60.85	
s, Daniel	do			60.85	
n, William H	do			11.54	
Edward G	do			60.85	
, Stephen	do			60.85	
m, William H	do			60.85	
m, Levin P	do			60.85	
mund	do			60.85	
dward	do			60.85	
ohn C	do			60.85	
, John L	do			60.85	
, Benjamin	do			60.85	
, George	do			60.85	
illiam C	do			60.85	
ewis B	do			60.85	
ohn	do			60.85	
James A	do			11.54	
vid D	do			60.85	
saiah	do			60.85	
George	do			60.85	
George	do			11.54	
ipe, James	do			60.85	
s, Joseph H	do			60.85	
s, James G	do			60.85	
ham, William	do			60.85	
ham, William H	do			60.85	
son, Niel T	do			11.54	
William H	do			60.85	
		$4,556.59		4,023.98	$532.61

uster in is not stated in this case, but pay is computed from October 8. Date entered in mber 18, 1856, but nothing to corroborate it.

l as private.

llowances for officers and men on this roll computed from October 8 to December 15, in- e 7th October is excluded, as that day has been allowed in computation of pay of Lieuten- s company, in which these men served. See voucher 19.

EXHIBIT No. 38.

Estimated amount—Voucher No. 23, Abstract A.

No.	Name.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.
1	R. B. Sullivant	Captain			$107.08	
2	William R. Gibbons	First lieutenant			90.42	
3	Joseph Underhill	Second lieutenant			86.25	
4	James A. Johnson	First sergeant			19.80	
5	H. S. Phillips	Sergeant			17.28	
6	Henry Sullivant	do			17.28	
7	Aaron Rials	do			17.28	
8	Jackson Sullivant	First corporal			13.92	
9	E. F. Billingsley	Corporal			13.92	
10	William Bird	do			13.92	
11	Jeremiah Underhill	do			13.92	
12	William Booth	Private			12.23	
13	O. F. Deklo	do			12.23	
14	S. R. Bearden	do			12.23	
15	Louis Green	do			12.23	
16	John Jones	do			12.23	
17	David Smith	do			12.23	
18	Louis W. Gleason	do			12.23	
19	Henry M. Sweet	do			12.23	
20	Edmund Sweat	do			12.23	
21	James Register	do			12.23	
22	Benjamin Lee	do			12.23	
23	John Sullivant	do			12.23	
24	Francis Sullivant	do			12.23	
25	Benjamin Wood	do			12.23	
26	Joseph Brooker	do			12.23	
27	E. J. Davis	do			12.23	
28	Jacob Drigors	do			12.23	
29	Jacob Burns	do			12.23	
30	Alexander Passmore	do			12.23	
31	John Sears	do			12.23	
32	Jackson Noles	do			12.23	
33	Isaiah Youngblood	do			12.23	
34	I. T. Nobles	do			12.23	
35	Dempsey Cain	do			12.23	
36	Louis Sehan	do			12.23	
37	W. C. Oberry	do			12.23	
38	Edward W. Ashley	do			12.23	
39	Nathan McCrancy	do			12.23	
40	James Booth	do			12.23	
41	William H. Branning	do			12.23	
42	Samuel Chancy	do			12.23	
43	W. W. Johnson	do			12.23	
44	B. W. Sullivant	do			12.23	
45	James Billingsley	do			12.23	
46	John Clark	do			12.23	
47	David Hagans	do			12.23	
48	Joseph Brookersen	do			12.23	
49	William Stanley	do			12.23	
50	James S. Gibbons	do			12.23	
51	George Rawls	do			12.23	
52	James Jones	do			12.23	
53	R. B. Roberts	do			12.23	
54	W. W. Shedd	do			12.23	
55	Z. J. Curry	do			12.23	
56	Alfred Taylor	do			12.23	
57	Hiram Bennet	do			12.23	
58	Willie Bennet	do			12.23	
59	A. J. Phillips	do			12.23	
60	Bryant Wilkinson	do			12.23	
61	Zachariah Polk	do			12.23	
62	James A. Green	do			12.23	
63	Jacob H. Varns	do			12.23	
64	John Mercer	do			12.23	
65	Andrew Davis	do			12.23	
66	John Phillips	do			12.23	
67	Henry McClanahan	do			12.23	
68	Robert Hampton	do			12.23	
69	Lewellin Sparkman	do			12.23	
			$809.15		1,120.41	

Pay is computed on this roll for twenty-five days, September 6 to 30, inclusive.
There is no pay roll and the muster roll (copy) is not certified by the State agent.
Pay is computed for each man named on the muster roll, and the estimated amount exceeds the amount claimed by $311.26; without the pay roll it can not be ascertained which of the men were and which were not paid.

EXHIBIT No. 39.

Statement of differences—Voucher No. 26½, Abstract A.

No.	Names.	Rank.	Claimed.	Allowed.	Suspended.	Disallowed.	Remarks.
1	Gilbert L. Key	First lieutenant & asst. surgeon.				$1,385.37	Pay and allowances for the period stated on F. and S. muster roll (copy) aggregate $1,385.37. There is no voucher or receipt to show that anything has been paid him.
2	John B. Eichelberger	do	$807.96	$780.34		27.62	Entitled to $33.33 per month pay proper and 20 cents ration prior to June 30, and to $53.33 per month pay proper and 30 cents ration after June 30, $2.50 per month for servant's clothing and $12 per month servant's pay. Overpayments exceed short payments.
3	James H. Peck	do	484.74	484.74			Short paid according to data given on F. and S. muster roll.
4	Elisha Carter	do				1,289.29	Pay and allowances for period stated on F. and S. muster roll aggregate $1,289.29, but there is no voucher or receipt to show that anything has been paid him.
5	George W. Price	do				683.66	Pay, etc., aggregate $683.66. Other remarks as above.
6	Franklin Branch	do				826.57	Pay, etc., aggregate $826.57. Other remarks as above.
7	Columbus R. Alexander	do				243.60	Pay, etc., aggregate $243.60. Other remarks as above.
8	Robert I. Kendrick	do				417.25	Pay, etc., aggregate $417.25. Other remarks as above.
9	Franklin Branch	do				353.82	Pay, etc., aggregate $353.82. Other remarks as above.
10	Columbus R. Alexander	do				348.74	Pay, etc., aggregate $348.74. Other remarks as above.
11	Joseph M. Taylor	Second lieutenant, a. q. m. and com'y.				317.05	Pay, etc., aggregate $313.05. Other remarks as above.
12	Samuel E. Hope	First lieutenant, a. q. m. and com'y.				623.32	Pay, &c., aggregate $623.32.
13	Francis B. Hagan	Sergeant, co. q. m. and com'y.					This man is borne and paid as a private on rolls of W. H. Hendrick's company (voucher No. 5).
14	M. Whit Smith	Colonel	1,076.39		1,075.40	99	Entitled to $75 per month pay proper and 20 cents ration prior to June 30, and to $95 per month and 30 cents ration after June 30, and servant's clothing and $2.50 per month for whole time. Overpayments exceed short payments. There is no muster roll or certificate connecting Col. Smith with the service paid for.
15	Edward R. Ives	Assistant quartermaster.	833.00		833.00		Entitled to $50 per month pay proper and 20 cents for ration prior to June 30, and to $70 per month and 30 cents ration after June 30. Servant's clothing at $2.50 per month and $12 per month servant's pay. Short payments exceed overpayments. No muster roll or certificate connecting this officer with the service.
16	Richard N. Jeffereys	Quartermaster's clerk.	370.00		367.50	2.50	Overpaid 1 day at $75 per month. Not borne on any muster roll and no certificate that the service was authorized or performed.
17	Perry G. Wall	Wagon master	85.33		85.33		Same as quartermaster's clerk.
				1,265.08	2,361.23	6,515.78	
						2,199.40	Amount unaccounted for.
	Total amount claimed on Abstract A for Voucher No. 26½ is.		12,341.49	1,265.08	2,361.23	8,715.18	

EXHIBIT No. 40.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract B, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable. The report will be so framed as to show what expenditures were properly made and what is the evidence of such expenditures, what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued, what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on p. 520, Vol. 21, of the United Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the COMMISSARY-GENERAL OF SUBSISTENCE.

EXHIBIT No. 41.

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., May 19, 1882.

SIR: I have the honor to return herewith the papers relating to the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, which were referred to the Commissary-General of Subsistence for investigation and report.

The accompanying statement shows the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department of the Army in said claim.

The prices charged for the several articles enumerated in the accompanying vouchers are considered high as compared with the prices charged by the Subsistence Department for similar articles at the date and near the locality when and where the vouchers were issued.

The following is a list of prices taken from the official papers of officers doing duty in this Department at Forts Brooke, Deynaud, and Myers at that time, viz:

Bread, per pound	$0.06
Pork, per pound	10
Fresh beef, per pound	05
Rice, per pound	06½
Beans, per pound	05
Coffee, per pound	12
Soap, per pound	08
Sugar, per pound	08
Sweet potatoes	.....
Potatoes, per bushel	1.50
Corn meal	.....
Bacon, per pound	13
Flour, per barrel	10.00
Liverpool salt, per quart	01½
Salt, per quart	01½
Mustard	.....
Pepper, per pound	25
Candles, per pound	32
Vinegar, per gallon	13½

In this connection it is remarked that these were the cost prices of the stores to the Subsistence Department at the principal purchasing depots, such as New York, New Orleans, and Charleston, and that they were sold in Florida to officers and issued to hospitals without cost of transportation added, fresh beef and potatoes excepted. The only evidence this office has of the correctness of the expenditures is the vouchers themselves.

Very respectfully, your obedient servant,

R. MACFEELY,
Commissary-General Subsistence.

The Hon. SECRETARY OF WAR.

EXHIBIT No. 42.

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department in the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between December 1, 1855, and January 1, 1860.

ABSTRACT B.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
27	F. M. Durrance	1	William Brown				$27.95			
		7	Charles W. Downing	$9.33						
		27	Alderman Carlton				21.60			
		28	T. W. W. Hill				16.55			
		32	T. Underhill	121.59						
		36	W. D. K. Pollard	24.75						
		41	W. P. Brooker	99.84						
		29	F. M. Durrance					$255.83		Par. 904, Army Regulations, 1857. Taken up on abstract: Voucher 18: pork, 40 pounds, should be 45 pounds; voucher 29: pork, 1,994 pounds, should be 1,944 pounds; voucher 36: beans, 35 quarts, should be 37½ quarts.
28	do	52	A. Carlton				169.77			
		53	T. W. W. Hill				15.00			Administrator is also certifying officer.
		55	James Howell	20.00						
		56	F. M. Durrance					50.00		
29	do	71	Joseph Howell	17.50						
										Taken up on Abstract F: Beef, 365 pounds, should be 563 pounds. [This error is corrected on quarterly abstract.]
31	W. H. Kendrick	5	W. H. Kendrick					96.25		Par. 904, Army Regulations, 1857.
32	do	7	F. C. M. Boggus	32.00						
		8	T A. Hendry	23.00						
		9	I. A. Boyet				75.00			
33	do	12	Joseph Hale				64.25			
		13	do				11.50			
36	A. D. Johnson	5	J. J. Bryant	2.00						
		6	Joseph Weeks				75.20			

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department, etc.—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
37	A. D. Johnson	7	A. D. Johnson					$712.10		
		10	E. B. Phelps		$20.80					
38	do	1	A. D. Johnson					47.05		
		4	Joseph Howell		16.80					
39	L. G. Lesley	5	W. J. Whidden	$5.44						
40	do	9	W. H. Wyatt				$17.55			
		11	S. B. McGuire	21.08						
41	do	14	L. G. Lesley				32.50			Moreover purchased of captain of company.
		19	D. Sumerall	1.96						
		21	L. Mozill	1.96						
		22	W. H. Willingham	3.87						
		24	I. Widden	3.87						
		25	I. Alderman	1.96						
		30	W. Willingham	3.87						
		31	Z. Seward	3.87						
		34	W. Varnes	3.87						
42	John McNeill	1	John McNeill					12.84		
		4	William Brown				12.84			
		5	R. E. Osburn				12.84			
		8	Edward Boyett	12.84						
		12	H. I. Banknight				12.84			
		25	J. M. Johnson		12.84					That is receipted in blank.
		26	J. McNeill, jr	12.84						
43	do	3	Joseph Hale	10.00						
		4	Albert Clark	4.10						
		6	John McNeill					27.98		
45	John Addison	1	John Addison					95.67		
		2	W. M. Wyatt				26.80			
47	S. L. Sparkman	5	A. J. Rowe	9.44						
		26	John Thomas	8.84⅔						
		32	James M. Harris	6.53⅓						
		44	F. Matheny (†)	4.09⅔						
		46	M. Flint	2.85½						
		52	G. McLelland				2.85½			

		53	O. P. Mason	2.85¼						
		54	Richard Gainy	2.85¼						
		55	A. J. McKinny		2.85¼					
		58	Sally Franklin				2.85⅝			
		65	Abraham Simmons	2.85¼						
		67	William Carney	2.85¼						
		72	Henry Frin	2.85¼						
		78	T. H. Rushing	1.11						
		79	N. K. Sparkman	1.11						
		80	J. Summerlin	1.11						
		81	J. McLelland	1.11						
		82	W. I. Rushing	1.11						
		83	W. I. Nuley	1.11						On abstract.—Candles taken up per vouchers 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, 11½ pounds each, should be ½ pound each voucher. Voucher 59 is not certified on abstract. Pork taken up per voucher 66, 1½ pounds, should be 11½ pounds. Rice taken up per voucher 85, 9½ pounds, should be 2½ pounds, 9½ cents added to amount of abstract, etc. Amount of abstract, $450.96½, should be $451.06. Footing of abstract: bread, 2,356 pounds, should be 2,401 pounds; vinegar, 23 gallons, 5 quarts, 2 gills, should be 23 gallons, 3 quarts, and 4 gills.
48	Jesse Carter	11	E. G. Rogers & Co		858.00					This is merely an invoice, having none of the essentials of a voucher for the payment of money.
		24	do	2,120.56						
		25	do		467.05					This is merely an invoice, having none of the essentials of a voucher for the payment of money.
49	Post and Mel		Post and Mel		1,955.21					Do.
50	Jesse Carter	61	do		2,162.61					Do.
		78	do		1,735.93					Do.
51	do	105	do		2,202.81					Do.
		117	James McKay						26.85	Articles purchased not component parts of the ration.
		135	M. C. & J. W. Brown						124.98	Amount of voucher, $534.66, should be $409.68; this, after deducting $124.98, not pertaining to the Subsistence Department.
52	do	197	do						25	Mustard purchased by this voucher not a component part of the ration.
			Miscellaneous: vouchers as follows, viz:							
		1	E. C. Rogers & Co		2,140.69					An invoice of stores, amounting to a total of $3,165.38, including insurance, drayage, etc., the subsistence portion of which, *not* including 1 platform scale, is $2,140.69.
	C. H. Austin, treasurer State of Florida.	2	A. L. Caruthers						1,514.52	This account is from July 22 to Oct. 27, 1849. The resolution of Congress does not authorize the account for 1849 to be included.

Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Subsistence Department, etc.—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Vouchers missing.	Vouchers not receipted.	Errors in computation.	Vouchers receipted by administrators or attorneys; no letters of administration or powers of attorney filed.	Purchased of company commander.	Not authorized by regulations.	Remarks.
	M. W. Smith, commanding special battalion, Florida Volunteers.	3	Sylvester Bryant, jr						$16.40	
	Jesse Carter	4	W. M. Johnson						6.00	Receipt for subsistence furnished; no itemized account.
	Gen. M. W. Smith, R. N. Jeffreys, A. A. Q. M.; Col. E. R. Ivers.	5	City Hotel, Tallahassee.						42.00	Not authorized by regulations.
	Gen. Carter	6	City Hotel						24.13	Receipt to a General Carter for board of a Mr. Chaseborough; not authorized by regulations.
	Amounts			$2,614.79½	$11,575.59½		$531.89½	$1,297.72	1,755.13	

RECAPITULATION.

Amount of Abstract B, as per footing	$23,474.90	
Amount of Abstract B, as per abstracts and miscellaneous vouchers		$23,836.35
Add for error in footing of Abstract No. 47, 9½ cents		.09½
		23,836.44½
Amount of vouchers purchased of company commander	1,297.72	
Amount of vouchers missing	2,614.79½	
Amount of vouchers not receipted	11,675.59½	
Amount of vouchers receipted by administrator	531.89½	
Amount of vouchers, unauthorized expenditures	1,755.13	
		17,775.13½
Correct total of Abstract B		6,061.31

EXHIBIT No. 43.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstracts C, D, E, F, and I, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the QUARTERMASTER-GENERAL.

EXHIBIT No. 44.

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, April 20, 1882.

SIR: I have the honor to return herewith the papers relating to the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, which were referred to the Quartermaster-General on March 27 and April 10, 1882, for investigation and report.

The papers submitted consist of Abstracts C, D, E, F, H, and I, with vouchers, and four (4) separate accounts, as follows, viz:

Abstract C, forage, amounting to	$42,279.52
Abstract D, transportation, amounting to	19,843.28
Abstract E, camp and garrison equipage, amounting to	193.81
Abstract F, quartermaster's stores, amounting to	589.67
Abstract H, contingent for troops, amounting to	10,332.84
Abstract I, stationery, amounting to	111.11
Account of J. M. Cooper, services, amounting to	7.50
Account of J. A. Garrard, services, amounting to	22.00
Account of Fred'k Lykes, rent, amounting to	5.00
Account of P. G. Wall, rent, amounting to	31.25
Total amount claimed	73,415.98

The abstracts and vouchers have been carefully examined in this office, and all errors, irregularities, etc., found existing therein are noted in the inclosed statement, numbered 1.

The inclosed statement numbered 2 shows the prices paid for forage by officers of the quartermaster's department on duty in Florida, and contains the only data the records of this office afford from which a comparison of prices can be made.

From this statement, I think that the price paid by the State of Florida for forage may be accepted as reasonable.

As the supplies and stores for United States troops in Florida were mostly drawn from New Orleans and the North, it seems impracticable for this office from its records to make a comparison of the prices paid by the United States with the prices paid by the State of Florida for all the different items of expenditure as charged in the vouchers.

The items embraced in Abstract D are for transportation by land and water, but mainly for hire of teams. The prices and rates charged seem reasonable, but the records here afford no data from which a strict comparison can be made.

Many of the items charged for under the head of camp and garrison equipage, Abstracts E and F, are articles which were not furnished and issued by the United States to its troops. But the prices charged do not, under the circumstances, seem unreasonable.

Abstract H covers expenditures of a miscellaneous nature, such as hire of employés advertising, printing, wharfage, etc., and the prices charged do not seem excessive.

Abstract I, being expenditures for stationery, the prices paid are not considered excessive.

The expenditures which seem to have been properly made are supported by vouchers issued by officers of the Florida Volunteers and by Jesse Carter, special agent of the State, which I think may be accepted as reasonable charges, and are in amount as follows:

Abstract C	$34,669.74
Abstract D	17,247.39
Abstract E	98.59
Abstract F	395.16
Abstract H	9,015.81
Abstract I	10.10
Account of J. M. Cooper	7.50
Total	61,444.29

I also submit a list of all officers of the Army on duty in the quartermaster's department in Florida from 1855 to 1860 (numbered 3), so far as shown by the records of this office, from whose accounts on file in the Treasury Department further information as to prices and rates paid may be obtained.

I am, very respectfully, your obedient servant,

RUFUS INGALLS,
Quartermaster-General, Brevet Major-General, U. S. Army.

The Hon. SECRETARY OF WAR.

EXHIBIT No. 45.

No. 1.—*Statement showing the errors, irregularities, etc., found existing in the abstracts and vouchers pertaining to the Quartermaster's Department in the claim of the State of Florida for expenditures made in suppressing Indian hostilities in that State between December 1, 1855, and January 1, 1860.*

ABSTRACT C.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.	Remarks.
54	F. M. Durrance	7	Charles W. Downing	$36.00			
54	do	38	W. D. K. Pollard	84.00			
54	do	47	Rigdon Brown	218.00			
54	do					*$2.00	Error in addition; amount to be added to Abstract C.
55	do	66	W. D. K. Pollard	46.50			
57	do	15	W. P. Brooker	12.50			
57	do					*1.00	Error in addition; to be deducted from Abstract C.
59	W. H. Kendrick	4	Margaret Tyner	37.50			
59	do	11	W. R. Overstreet	15.00			
60	do	17	N. Bovet	117.40			
60	do	21	F. B. Hagin	46.50			
63	A. D. Johnson	7	J. J. Bryant	7.00			
63	do	8	B. W. Crews	68.75			
64	do	14	J. A. Alexander	81.25			
64	do	18	E. B. Phelps	11.75			
66	L. G. Lesley	9	W. J. Whidden	3.00			
66	do	16	M. Alderman	3.00			
68	do	29	W. H. Willingham	6.00			
68	do	31	William Willingham	6.00			
68	do	34	J. Whidden	6 00			
68	do	37	Andrew Wiggins	4.50			
68	do	47	Owen Blount	15.00			
68	do	48	D. Summerall	3.00			
68	do	51	J. Hamilton	3.00			
68	do	54	L. Mizzel		$3.00		
69	John McNeil	8	Edward Boyes	33.12			
69	do	26	John McNeil, jr	33.12			
70	do	1	Albert Clark	8.40			
73	S. L. Sparkman	6	O. P. Majors	$7.93			
73	do	8	A. J. McKinney	7.93			
73	do	10	Richard Gainey	7.93			
73	do	19	Abram Simmes	7.93			

* Error on abstract.

No. 1—*Statement showing the errors, irregularities, etc., pertaining to the Quartermaster's Department, etc.*—Continued.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.	Remark.
73	S. L. Sparkman	21	William Carney	$7.93			
73	do	24	Martin Flint	7.93			
73	do	47	A. J. Rowe	26.57½			
73	do	64	—— Mather	11.66			
73	do	67	Joseph M. Harris	19.09½			
73	do	73	M. K. Sparkman	3.18			
73	do	77	W. W. Rushing	3.18			
73	do	79	W. L. Neeley	$3.18			
73	do	1	W. W. Smith			$0.07	Underpaid.
73	do	2	Baxter Smith			.07	Do.
73	do	3	George Simmons			.07	Do.
73	do	4	Marshall Simmons			.07	Do.
73	do	5	Peter Platt			.07	Do.
73	do	7	G. McClelland			.07	Do.
73	do	9	John W. Hawkins			.07	Do.
73	do	11	John M Fritch			.07	Do.
73	do	12	George Franklin			.07	Do.
73	do	13	Sally Franklin			.07	Do.
73	do	14	Henry Dees			.07	Do.
73	do	15	John Collins			.07	Do.
73	do	16	W. J. Campbell			.07	Do.
73	do	17	J. C. Bryant			.07	Do.
73	do	18	F. M. Bryant			.07	Do.
73	do	20	George W. Smith			.07	Do.
73	do	22	H. M. Lanier			.07	Do.
73	do	23	William M. Blocker			.07	Do.
73	do	25	Henry Frier			.07	Do.
73	do	26	Samuel A. Wells			.07	Do.
73	do	27	Henry Sylvester			.07	Do.
73	do	66	A. B. Robertson			.01½	Do.
73	do	68	T. C. Pierce			.01½	Do.
73	do	69	S. T. Hollingsworth		$19.09½	01½	Do.
73	do	70	R. V. Buffum			01½	Do.
73	do	71	Stephen Hollingsworth			01½	Do.
73	do	72	Timothy Hollingsworth			01½	Do.
73	do	85	C. Zebenden			37½	Do.
73	do	58	Samuel J. Rogers		11.66		Receipt signed by Samuel J. Bogus.
73	do					*29.90	Error in addition; to be deducted from Abstract C.
74	do	1	Hardy Collins		18.11½		
74	do	2	R. H. Lanier		23.91		

74	.....do	3	W. T. Rushing		23.91		
75	Jesse Carter	11	E. G. Rogers & Co		636.85		
75	.....do	24	.....do	†641.72			
75	.....do	61	Post & Mel	‡324.00			
77	.....do	105	.....do	§350.12			
77	.....do	107	S. L. Sparkman	150.00			
77	.....do	154	James McKay			2.19	Underpaid.
79	.....do		A. Jerrigan	4,410.77			
79	.....do					*54.00	Error in carrying amount of subvoucher, favor of A. L. Caruthers; the amount to be added to Abstract C.
	Totals Abstract C			6,897.34	737.54	4.12½	

*Error on abstract.
(In pencil:) †Appears to be an invoice Is not a voucher for the payment of money. Paper found and placed with voucher 75, Abstract C.
(In pencil:) ‡Invoice. Not a voucher for payment of money. Paper with voucher 50, Abstract B.
(In pencil:) §Invoice. Not a voucher. Paper with voucher 51 B.

RECAPITULATION OF ABSTRACT C.

Total amount of Abstract C		$42,279.52
Errors in voucher to be added		56.00
		42,335.52
Errors in vouchers to be deducted		30.90
		42,304.62
Total amount of missing subvouchers	$6,897.34	
Amount of subvouchers not receipted	737.54	
		7,634.88
Correct total of Abstract C		34,669.74

EXHIBIT No. 45—Continued.

ABSTRACT D.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
82	W. H. Kendrick	1	Thomas M. Tucker	$1.50		
82	do	2	J. J. Frier	42.00		
82	do	3	James A. Boyet	15.00		
82	do	5	Simeon Tyner	18,00		
82	do	8	John Eubanks	7.50		
82	do	13	A. T. Frierson	865.00		
82	do	15	T. H. Gould	18.00		
82	do	16	James M. Bates	6.00		
82	do	17	do	4.14		
83	do	4	John Eubanks	30.00		
84	A. D. Johnson	4	William Matchett	10.50		
84	do	5	Preston Aiken	10.50		
84	do	9	William R. Mills	35.00		
84	do	12	Frederick Lykes	10.00		
86	L. G. Lesley	8	William G. Poe*		$19.50	
86	do	9	Levi Long	42.00		
86	do	11	W. L. Campbell	8.00		
87	John McNeil	4	John Eubanks	845.00		
93	W. Smith		Sylvester Bryant		26.25	
93	do		W. R. Gouldin		440.00	
93	do		Thomas Chafe		20.00	
93	do		William H. Kendrick		30.00	
93½	C. H. Austin		D. C. Ferrigan	1,092.00		
	Totals Abstract D			2,060.14	535.75	

*Receipted by S. B. Todd.

RECAPITULATION OF ABSTRACT D.

Total amount of Abstract D		$19,843.28
Total amount of missing subvouchers	$2,060.14	
Amount of subvouchers not properly receipted	535.75	
		2,595.89
Correct total of Abstract D		17,247.39

ABSTRACT E.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
95	Jesse Carter	83	W. G. Ferris & Son	$9.43		
95	do	86	Jesse Carter	3.60		
95	do	94	Kennedy & Wordehoff	25.14		
95	do	101	James McKay	57.05		
	Total amount of missing subvouchers			95.22		

RECAPITULATION OF ABSTRACT E.

Total amount of Abstract E	$193.81
Total amount of missing subvouchers	95.22
Correct total of Abstract E	98.59

EXHIBIT No. 45—Continued.

ABSTRACT F.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
97	Jesse Carter	131	W. G. Ferris & Son	$55.56		
98	W. Smith	B. L.	Post & Mel		$138.95	
	Totals Abstract F			55.56	138.95	

RECAPITULATION OF ABSTRACT F.

Total amount of Abstract E		$589.67
Amount of missing subvouchers	$55.56	
Amount of vouchers not receipted	138.95	
		194.51
Correct total of Abstract F		395.16

ABSTRACT H.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
105	Jesse Carter	11	E. G. Rogers & Co	$65.36		
105	do	24	do	*198.10		
105	do	25	do	122.07		
106	do	60	Post & Mel		$310.75	
106	do	62	do	1.65		
106	do	78	do	204.60		
107	do	104	do		289.50	
108	do	177	E. E. Barry			†$13.32
109	do	2	William Dudley	125.00		
	Totals Abstract H			716.78	600.25	13.32

*(In pencil): Appears to be an invoice: is not a voucher for the payment of money; papers found and placed with voucher 75, Abstract C.
† Underpaid.

RECAPITULATION OF ABSTRACT H.

Total amount of Abstract H		$10,332.84
Amount of missing subvouchers	$716.78	
Amount of subvouchers not receipted	600.25	
		1,317.03
Correct total of Abstract H		9,015.81

EXHIBIT No. 45—Continued

ABSTRACT I.

Voucher number.	Officer.	Subvoucher number.	In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
115	Jesse Carter	61	Post & Mel	*$44.10		
115	do	92	do		$50.00	
117	W. Smith		James S. Turner		6.91	
	Totals Abstract I			44.10	56.91	

* (In pencil): Invoice; not a voucher for the payment of money; paper with voucher 50, Abstract B.

RECAPITULATION OF ABSTRACT I.

Total amount of Abstract I		$111.11
Amount of missing subvouchers	$44.10	
Amount of subvouchers not receipted	56.91	
		101.01
Corrected total of Abstract I		10.10

NOTE.—The sum of the errors noted under head of "Errors in computation," in foregoing statement, being in favor of the State of Florida, has not been added to the amount of the claim, for the reason that the vouchers in which such errors occur have been paid at the amount shown on their face.

SEPARATE ACCOUNTS.

In favor of—	Missing vouchers.	Vouchers not receipted.	Errors in computation.
Jacob A. Garrard		$22.00	
Frederick Lykes		5.00	
Perry G. Wall		31.25	
Total amount of accounts not receipted		58.25	

RECAPITULATION.

Amount of Abstract C, as stated	$42,279.52	As corrected	$34,569.74
Amount of Abstract D, as stated	19.843.28	As corrected	17,247.39
Amount of Abstract E, as stated	193.81	As corrected	98.59
Amount of Abstract F, as stated	589.67	As corrected	395.16
Amount of Abstract H, as stated	10,332.84	As corrected	9,115.81
Amount of Abstract I, as stated	111.11	As corrected	10.10
Amount of account favor of J. M. Cooper	7.50	As corrected	7.50
Amount of account favor of J. A. Garrard	22.00	As corrected	0.00
Amount of account favor of Frederick Lykes	5.00	As corrected	0.00
Amount of account favor of Perry H. Wall	31.25	As corrected	0.00
Total	73,415.98	As corrected	61,444.29

EXHIBIT NO. 46.

NO. 2.—*Comparative statement of prices paid for forage by the State of Florida and by the Quartermaster's Department of the Army in that State, so far as the records of the Quartermaster-General's Office show.*

Date of purchase.	Corn.		Oats.		Hay.		Fodder.		Place of purchase by Quartermaster's Department.
	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	Price paid by State.	Price paid by Quartermaster's Department.	
	Per bush.	*Per bush.*	*Per bush.*	*Per bush.*	*Per 100 lbs.*	*Per 100 lbs.*	*Per 100 lbs.*	*Per 100 lbs.*	
1855, fourth quarter	$1.25, $1.40, $1.50, and $2.	$1.62½	$1	$1.12½	$1.50 and $2	$1.75	$1.50 and $2	None	Key West.
1856, first quarter	87½c., $1.50, and $2.	$1.50	90c	87c	$1.50 and $2	$1.25	$1.50 and $2	None	Do.
1856, second quarter	58c., $1, $1.25, $1.87½, $1.50, and $2.	$1.50	80c., 90c., and $1.	87c. to $1	$1.50	$1.25	$1.50 and $2	None	Do.
1856, third quarter	50c., 62½c., 80c., 90c., $1, $1.12½, $1.25, $1.37½, and $1.50.	None	None	None	$1.50, $2, and $2.50.	None	$1.25, $1.50, and $2.	None	
1856, fourth quarter	85c., $1, $1.10, $1.12½, $1.25, and $1.50.	None	None	None	$1 and $1.50	None	$1, $1.25, $1.50, and $2.	None	
1857, first quarter	$1.25	None	$1	None	None	None	None	None	
1857, fourth quarter	None	$1.25	None	$1	None	None	None	None	Fort Brooke.
1859, fourth quarter	$1.50	None	None	None	None	None	$2	None	

EXHIBIT No. 47.

No. 3.—*List of officers on duty in the Quartermaster's Department of the Army in Florida from December* 1, 1855, *to January* 1, 1860.

Station.	Names.	Date.
Apalachicola Arsenal.	J. R. Hanhan	April 1, 1857.
	F. C. Humphreys	April 1, 1858.
Camp Alifaya	Lieut. J. J. Dana	January 14, 1857.
Fort Brooke	Maj. J. M. McKinstry	March 31, 1856, to December 31, 1857.
	Lieut. T. M. Vincent	September 30, 1855.
Barrancas Barracks	Lieut. A. G. Beckwith	June 30, 1858.
	Lieut. J. H. Gilman	August 5, 1859.
Fort Center	Lieut. A. J. S. Molinard	First quarter, 1856.
	Lieut. T. Grey	February 20, 1856.
	Lieut. A. S. Webb	March 23, 1856.
	Lieut. H. A. Hascall	January 11, 1857.
	Capt. De Russey	February 28, 1857.
	Lieut. G. T. Goode	June 24, 1857.
	Lieut. R. Canova	September 10, 1857.
	Lieut. J. G. Haddock	November, 1857.
	Lieut. E. R. Cheesborough	Do.
	Lieut. W. W. Franklin	March 4, 1858.
	Lieut. Isaac Reed	March 19, 1858.
Fort Cross	Lieut. W. S. Abert	First quarter, 1857.
	Lieut. R. Loder	May 31, 1857.
	Capt. McCown	June 30, 1857.
Fort Dallas	Lieut. J. W. Robinson	Third and fourth quarters, 1855.
	Lieut. L. O. Morris	Do.
	Lieut. W. W. Graham	February 14, 1856.
	Lieut. O. H. Tillinghast	October 2, 1856.
	Lieut T. Talbott	December 3, 1857.
	Lieut. J. W. Turner	March 10, 1858.
Drum, Simon	Lieut. L. L. Langdon	First quarter, 1856.
	Lieut. T. Greble	May 10, 1856.
Fort Deynand	Lieut R. B. Thomas	December 31, 1855.
	Lieut. F. H. Larned	Do.
	Lieut. J. H. Wheelock	November 11, 1856.
	Lieut. C. L. Best	December 26, 1857.
	Lieut. T. W. Brevard	September 15, 1857.
	Lieut. Isaac Reed	November 24, 1857.
Fort Dulaney	Lieut. W. S. Abert	Fourth quarter, 1856.
	Lieut. B. Wingate	January, 1857.
	Lieut. E. M. Hudson	January, 21, 1857.
	Lieut. J. H. Wright	Do.
	Lieut. F. A. Shoup	
Key West	Lieut. A. Smead	June 15, 1855.
	Lieut. A. Beckwith	October 24, 1856, to December 31, 1857.
	Lieut. J. M. Brannan	May 31, 1858, to May 31, 1859.
	Lieut. C. H. Webber	June 16, 1858, to November 30, 1859.
	Lieut. A. R. Eddy	April 1, 1859.
	Lieut. A. C. Gillom	April 30, 1861.
Fort Kissemme	Lieut. D. D. Perkins	First quarter, 1857.
	Lieut. W. R. Terrill	May 31, 1857.
	Lieut. J. R. Waddy	August 31, 1857.
Fort McRae	Lieut. W. R. Terrill	
	Lieut. S. H. Weed	
	Lieut. E. McK. Hudson	March 23, 1857.
	Lieut. E. H. Broady	December 31, 1857.
Fort Myers	Lieut. J. M. Robinson	1855.
	Maj. J. McKinstry	December 29, 1855.
	Capt. W. S. Hancock	First quarter, 1856.
	Capt. De Russy	June 30, 1857.
	Capt. Van Bockelin	October 26, 1857.
Mellowville	Lieut. J. McL. Taylor	June 10, 1856.
	Capt. De Russy	December 31, 1856, to January 14, 1857.
	Lieut. A. L. Magilton	
	Lieut. O. F. Solomon	July 10, 1859.
Monatee	Lieut. F. J. Greble	September 30, 1856.
	Lieut. J. J. Dana	November 22, 1856.
	Lieut. F. M. Follett	December 15, 1856.
Fort Pickens	Lieut. J. McL. Taylor	November 17, 1855.
	Lieut. A. Merchant	April 2, 1856.
	Lieut. G. T. Balch	November 24, 1856.
	Capt. I. Newton	June 30, 1857.
	Lieut. A. Beckwith	June 30, 1858.
	Lieut. J. H. Gilman	
	Lieut. L. L. Langdon	April 21, 1861.
Camp Rogers	Lieut. F. Rawlerson, Florida Vols	
	Lieut. I. Fink	November 18, 1857.
	Lieut. I. G. N. Price, Florida Vols	January 9, 1858.
	Lieut. Thomas Barco, Florida Vols	February 6, 1858.
Camp Snead	Lieut. F. M. Follett	December 13, 1856.

EXHIBIT No. 48.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract G, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by the direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made, and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the CHIEF OF ORDNANCE.

EXHIBIT No. 49.

ORDNANCE OFFICE, *April* 15, 1882.

Respectfully returned to the Secretary of War.

* * * * * * *

These purchases were made between March and December, 1856, by Jesse Carter, special agent of Florida, for the use of the mounted Florida volunteers. The ordnance property returns of the Florida volunteers show that their supplies of ordnance stores were drawn from Bvt. Col. John Munroe, U. S. Army, at Fort Brooke, Fla. The property returns of Bvt. Col. John Munroe, U. S. Army, and the officers of the Florida volunteers, covering a period from 1856 to 1860, have been examined, but no part of the above-named property has been accounted for thereon. No returns have been made by the State of Florida, or by Jesse Carter, special agent. No purchases of similar stores were made by this Department in Florida in 1856, but purchases were made in that year in New York of musket powder, at 20 cents per pound, and percussion caps, at $1.35 per thousand. No lead was purchased by the Department in 1856, but the lead on hand at that time for issue to troops was inventoried at 6 cents per pound, so that it appears that the prices paid in vouchers are high, but if the purchases were made in Florida, so far from a market, may not be considered exorbitant.

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

Number of voucher.	In whose favor.	Kind of supplies.	When supplied.	Amount paid by State.	Amount disallowed by Chief of Ordnance.	Amount recommended by Chief of Ordnance.
			1856.			
	M. C. & J. W. Brown..	14 bars lead	Mar. 15	$1.40	¢0.28	$1.12
		3½ kegs powder	Mar. 15	12.00	.....	12.00
10	W. G. Ferris & Son ...	3 bags buckshot	Mar. 15	7.50	1.50	6.00
		1 dozen boxes percussion caps.	Mar. 15	5.40	1.08	4.32
14	.....do	30 pounds lead	Apr. 12	2.85	.45	2.40
		8,500 boxes caps	Apr. 12	17.05	2.60	14.45
		1,700 G. D. caps	Apr. 12	1.10	.....	1.10
		18 canisters powder	Apr. 12	13.50	2.70	10.80
		1 keg powder	Apr. 12	8.00	1.75	6.25
		6 bags buckshot	Apr. 12	15.00	3.00	12.00
18	C. L. Friebele	½ dozen boxes percussion caps.	Mar. 17	3.00	.60	2.40
24	E. G. Rodgers	6 kegs F. powder	May 7	52.50	15.00	37.50
		.....do	May 7	52.50	15.00	37.50
		24 bags buckshot	May 7	57.00	9.00	48.00
		1 box bar lead	May 7	8.00	1.60	6.40
		20 M percussion caps	May 7	35.00	1.00	34.00
29	Phillips & Winchester	20 pounds Dupont powder ...	Apr. 5	12.50	7.50	5.00
		20 pounds lead	Apr. 5	1.80	.20	1.60
		6 boxes percussion caps	Apr. 5	3.00	.60	2.40
41	James McKay	.....do	May 16	3.75	.75	3.00
55	.....do	1 keg powder	July 4	10.00	3.75	6.25
		4 bags buckshot	July 4	12.00	4.00	8.00
		3 M percussion caps	July 4	2.25	.....	2.25
		10 pounds bar lead	July 4	1.25	.45	.80
		4 bags buckshot	July 7	12.00	4.00	8.00
		2 M percussion caps	July 7	1.50	.....	1.50
		20 pounds bar lead	July 7	2.50	.90	1.60
61	Post & Mel	30 bags buckshot	July 21	69.00	9.00	60.00
55	.....do	100 pounds of bar lead	July 21	8.00	.....	8.00
		6 kegs powder	July 21	48.00	10.50	37.50
		30 M percussion caps	July 21	60.00	9.00	51.00
88	C. L. Friebele	10 pounds lead	May 3	1.00	.20	.80
99	Kennedy & Darling ..	3 bags buckshot	Apr. 11	7.50	1.50	6.00
102	James McKay	1 keg powder	Oct. 15	8.50	2.25	6.25
111	John J. Hooker	9 pounds powder	Oct. 23	5.62	3.37	2.25
135	M. C. & J. W. Brown..	40 M percussion caps	Oct. 15	50.00	.....	50.00
192	.....do	6 canisters powder	May 6	6.00	1.20	4.80
198	.....do	.....do	Dec. 2	4.50	.90	3.60
		12 pounds lead	Dec. 14	.96	.....	.96
				623.43	115.63	507.80

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

ORDNANCE OFFICE, *May* 15, 1882.

EXHIBIT NO. 50.

WAR DEPARTMENT,
Washington City, March 27, 1882.

SIR: The accompanying Abstract K, with vouchers, submitted to this Department under the provisions of the joint resolution of March 3, 1881, pertaining to the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860, are, by direction of the Secretary of War, respectfully referred to you for investigation and report as soon as practicable.

The report will be so framed as to show what expenditures were properly made, and what is the evidence of such expenditures; what amounts should be accepted as reasonable charges at the date and locality when and where the vouchers were issued; what vouchers are defective, and generally to exhibit the correctness of the claims submitted.

The joint resolution to which reference is made will be found on page 520, Vol. 21, of the United States Statutes at Large.

Very respectfully,

JOHN TWEEDALE,
Acting Chief Clerk.

To the SURGEON-GENERAL.

EXHIBIT No. 51.

Report on vouchers pertaining to the claim of the State of Florida for reimbursement of expenses incurred in suppressing Indian hostilities between the 1st day of December, 1855, and the 1st day of January, 1860. (See Statutes 21, page 520.)

The recommendations here made are based upon the same principles which are applied in the settlement of similar claims on account of United States troops, so far as relates to the evidences of claim and the current rates of the period.

		Amount claimed.	Amount recommended.
Dr. D. A. Branch, medical attendance, April 29 to July 15, 1856		$31.00	$31.00
Dr. D. A. Branch, medical attendance, same time. This a second charge for the same service, with an additional item		34.50	.....
Dr. D. A. Branch, medicines; disallowed $9.35, the amount of a separate bill, which is wanting		14.10	4.75
S. B. Todd, medicines; allow $3.25 per ounce for quinine on 1st line; deduct $4.50; for opium, $7 per pound, 7th line, deduct 84 cents; sulph. cupri, 9th line, 3 cents per ounce, deduct $1.76; error in extending 6th line, 1 cent, $7.11		48.79	41.68
S. B. Todd, medicines; allow for aloes, on last line, 4 cents per ounce; deduct 42 cents		20.03	19.61
Dr. John P. Creighton, medical attendance, June, 1856		15.00	15.00
James McKay, medicines, July, 1856; deduct on quinine, as above, $1.75		6.33	4.58
James McKay, medicines, August, 1856		11.37	11.37
James McKay, medicines, September, 1856; allow for brandy, 1st line, $1.25 per bottle, deduct $1.50; line 18 should be 12½ cents, deduct 12½ cents; line 21 should be 31 cents, deduct 94 cents; line 24, deduct for overcharge, $1.25; line 29, deduct for overcharge, $1.05		50.92	46.05
M. C. & J. W. Brown, medicines, October 13, 1856:			
Line 1, allow $2.50 per dozen; deduct	$3.00		
Line 14, allow 75 cents per dozen; deduct	21.00		
Line 15, allow 50 cents per dozen; deduct	6.00		
Line 20, allow 75 cents per pound; deduct	1.40		
Error in footing, deduct	8.80		
Commission, deduct	3.83		
	44.03	158.83	114.90
James McKay, medicines, October 21, 1856:			
Line 1, deduct on tea	50		
Line 2, deduct on brandy	2.00	44.60	42.10
Kennedy & Darling, medicines, October 20, 1856		1.00	1.00
Dr. J. A. Moody, medical attendance, June, 1856		67.00	.....
The acknolwedgment of having received a "certificate of compensation" is not considered evidence of actual payment.			
S. L. Niblack, medicines, July 10, 1856		259.78	.....
This account is not certified by any officer or agent of the State. If it be allowed, the following prices are recommended:			
Line 1, calomel, 75 cents per pound.			
Line 3, magnesia, $1 per pound.			
Line 18, epsom salts, 10 cents per pound.			
Line 19, sulph. quinine, $3.25 per pound.			
Line 22, gum opii, $7 per pound.			
Line 11, 2d page, blue stone, 50 cents per pound.			
Line 29, 2d page, blue mass, $1 per pound.			
Line 1, page 3, brandy, $5 per gallon.			
Line 2, page 3, port wine, $3 per gallon.			
Line 6, page 3, wine bitters, $4 per gallon.			
Line 11, page 3, ball forceps, $3.			
Jacob A. Garrard, services as mechanic		22.00	.....
There is no certificate of service, or evidence of payment. The services are such as can best be judged of by the Quartermaster-General.			
James M. Cooper, services as mechanic, July, 1856		7.50	.....
Receipted but not certified; proper for the consideration of the Quartermaster-General.			
Frederick Lykes, rent		5.00	.....
For the consideration of the Quartermaster-General.			
D. A. Branch, medicine, August, 1856		14.81	.....
No certificate or receipt; for the price of quinine, see above account of S. B. Todd.			
Ames & Lively, medicines, September, 1856		54.00	.....
Not certified by any State officer or agent; a fair price for quinine would be $3.25, as above.			
Robert Bigelow, medicines, September, 1856		168.05	156.00
Deduct for overcharge:			
Line 1, calomel	$0.55		
Line 12, blue mass	.75		
Line 2, page 2, quinine	3.50		
Line 14, page 2, opium	1.50		
Line 6, page 3, cupping horns	2.00		
Line 7, page 3, scarificator	3.00		
	11.30		

Report on vouchers pertaining to the claim of the State of Florida, etc.—Continued.

		Amount claimed.	Amount recommended.
Anderson Mayo, medicines, September 17, 1856		$18.13	$12.53
Deduct, line 2, quinine	$4.50		
Deduct, line 3, calomel	.80		
Deduct, line 6, blue mass	.30		
	5.60		
John Parsons, medicines, September 24, 1856		96 92	.....
No certificate or evidence of payment.			
Perry G. Wall, rent		31.25	.....
No certificate or evidence of payment; for the consideration of the Quartermaster-General.			
F. Branch, medicines, October 8, 1856		131.52	.....
Not receipted.			
F. Branch, medicines, December, 1856		45.30	.....
		1,357.83	501 .32

It has not been thought necessary to remark specially upon any of the prices charged in the last two accounts, as there is no evidence that any part of them was paid.

J. K. BARNES,
Surgeon-General, U. S. Army.

SURGEON-GENERAL'S OFFICE,
April 4, 1862.

House Ex. Doc. No. 68, Fifty-first Congress, first session.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

TRANSMITTING,

With accompanying papers, the report of the Third Auditor of the Treasury upon the mutual demands of the State of Florida and the United States.

DECEMBER 18, 1889.—Referred to the Committee on Appropriations and ordered to be printed.

TREASURY DEPARTMENT, *December* 16, 1889.

SIR: In compliance with section 5 of the deficiency act of March 2, 1889 (25 Stat., p. 939)—

That the Secretary of the Treasury be, and he is hereby, authorized and directed to examine the claim of the State of Florida, reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, and to make a report upon the same to the next regular session of Congress, and in connection therewith to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida,

I have the honor to transmit herewith the report of the Third Auditor of the Treasury of the 14th instant, with accompanying papers, upon the mutual demands of the State and the United States.

Respectfully, yours,

GEO. S. BATCHELLER,
Acting Secretary.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
Washington, D. C., December 14, 1889.

SIR: The deficiency act of March 2, 1889, section 5, provided:

That the Secretary of the Treasury be, and is hereby, authorized and directed to examine the claim of the State of Florida reported in the letter of the Secretary of War dated May 22, 1882, and under previous acts of Congress, to make report upon the same to the next regular session of Congress, and in connection therewith

to report the amount of all claims in favor of the General Government against the State of Florida, and in said report to state the account between the General Government and the State of Florida.

Under the date of March 26, 1889, you instructed the Third Auditor to prepare a report in accordance with said provision.

The State advances two claims under this provision, viz:

First. The claim specifically referred to in the act as reported in the letter of the Secretary of War, May 22, 1882. This claim is for the reimbursement of certain expenses incurred by the State in suppressing Indian hostilities between December 1, 1855, and January 1, 1860, $268,103.40 (*vide* Joint Resolution of March 3, 1881; also report by Secretary of War, in House Ex. Doc. No. 203, 47th Congress, 1st session).

Second. Sundry expenses for similar purposes, incurred in 1849, but not paid by the State until 1859, $21,685.72. In making the report above referred to the Secretary of War excluded these items because the joint resolution under which he was acting was limited to expenses incurred between December 1, 1855, and January 1, 1860. But the act of 1889 requires a report upon any now unsettled claims by the State.

On the claim originating in the years 1855–'59 (*vide* detailed statement) I find an expenditure proven in the sum of	$246,426.51
Deduct amount realized by the State by sales of military stores (Ex. III)	1,405.65
	245,020.86
In the items of expenses in 1849 (paid by State in 1859) I find an expenditure proven (*vide* detailed statement) in the sum of	16,913.45
Aggregate	261,934.31

Offsets—demands against the State.—In reply to the inquiry addressed to you by this office April 10, 1889, you have transmitted responses by the Departments and bureaus respecting the existence of any such demands. Only two are reported, viz:

First. The First Comptroller states that a balance of $72,756.41 stands against the State on account of "direct tax" under act August 5, 1861. In the case of United States *vs.* Louisiana (123 U. S. Rep., 32) the Supreme Court decided that the apportionment of the tax ($20,000,000) among the States was merely descriptive of the aggregate to be assessed upon lands of individuals within each State; that the act contemplated, in the first instance, that the United States would, by its own direct processes, collect the tax upon each parcel of land from the parcel itself, and that such aggregate constituted no debt of the State in its corporate capacity, unless the State had, as in some instances, specially assumed it.

As Florida did not assume the aggregate assessed upon the lands within its boundaries, I presume Congress will not regard the balance above mentioned as a debt of the State, or treat it as an offset to a demand due the State.

Second. The Secretary of the Interior reports that the United States holds, as assets of its "Indian trust fund," bonds of the State in the sum of $132,000, bearing 7 per cent. interest; that the interest to July 1, 1862, was paid by the State, and that, since the suspension of the interest payments by it, the Interior Department has from time to time applied to the interest sundry accounts falling due to the State on sundry accounts. And thus it appears that at this date the interest has been paid to include November 26, 1873.

NOTE.—This computation includes the 5 per cent. due the State on sale of United States swamp lands, as shown in the settlement of the

accounts of the United States land office at Gainesville, Fla., covering the fiscal year 1888–'89. Such percentages due the State are liable to appear in the future settlements of the land office accounts.

The question now arises in respect to *interest* upon the demands of the State. If this were a case wherein the accounting officers had been directed to make a final settlement, I would be compelled to say that the Executive Departments have no power to award interest upon claims against the United States unless expressly so provided by statute. But this proceeding is not of that nature. Congress has reserved to itself the determination what shall be the plan and terms of the general and final settlement between the United States and the State, and has merely called upon this Department to aid its deliberations, by examining into the details of any mutual demands and by suggesting some equitable mode of settlement.

In the debate upon this provision in the act of March 2, 1889, it was assumed in the Senate that mutual interest would be the rule in the final adjustment, and the general tenor of the provision for a final settlement of all mutual demands seems to indicate that Congress intends eventually to make or provide for a settlement upon the broad and equitable principles applicable to settlements between individuals of their mutual accounts and demands.

It is not clear in what precise sum the funds for these expenditures were provided by loans effected upon interest. It is, however, evident that the amount borrowed upon 7 per cent. bonds and thus applied went much beyond the $132,000 procured from the United States; and it is highly probable that the entire bulk of the funds for these expenditures was borrowed upon interest.

It also appears that the State was compelled to put its bonds (except those sold to the United States) on the market at a heavy discount.

It would be impossible to fix with strict precision upon any equated date from which an aggregate due the State should draw interest. The payments by the State were in a vast number of small sums, scattered through the period 1855–'59, and the exact day of payment in many cases is not known; also the exact dates at which the State effected loans or sold bonds (except those sold to the United States) are not known. The two purchases by the United States were about midway of this period, viz: $125,000, July 1, 1857, and $7,000, January 1, 1858.

Under the circumstances, absolute precision being impossible, I have assumed that January 1, 1858, would be fair to each party as a date from which to reckon interest on the amount due the State.

Upon the basis above stated two modes of stating a mutual account are suggested, viz:

First. By computing interest on each side to January 1, 1890, and there striking a balance, thus:

Aggregate due the State		$261,934.31
Interest thereon, at 7 per cent., January 1, 1858, to January 1, 1890		586,732.85
		$848,667.16
Principal of bonds held by United States	$132,000.00	
Interest from November 27, 1873 (to which date interest has been paid), to January 1, 1890	148,712.66	
		$280,712.66
Balance		$567,954.50

Second. By computing interest on the aggregate due the State to include November 26, 1873 (to which date inclusive the interest on the

bonds held by the United States has been paid), and striking a balance as of *that* date, viz:

Principal due State		$261,934.31
Interest, at 7 per cent., January 1, 1858, to November 26, 1873, inclusive	$291,634.74	
Deduct bonds held by United States	132,000.00	
Leaving balance due as interest		$159,634.74
		$421,569.05

If Congress deems proper to allow interest on the principal ($261,-934.31) from November 27, 1873, to January 1, 1890, the interest at 7 per cent. would be $295,098.10: or, at 6 per cent., $252,941.23.

In any final settlement which may apply and thus liquidate the bonds held by the United States it would be advisable that the act of Congress make express provision for the surrender of the bonds and coupons to the State.

Detailed statements of the two claims follow.

Very respectfully,

W. H. HART,
Auditor.

Hon. WILLIAM WINDOM,
Secretary of the Treasury.

CLAIM FOR EXPENSES IN 1855-'59—DETAILED STATEMENT.

[*Vide* House Reports, Ex. Doc. 203, 1st sess. 47th Cong.]

By act of August 30, 1856 (11 Stat., 150), an appropriation of $240,667.42 was made for pay and supplies of mounted and foot companies of Florida volunteers; and by act of June 30, 1859 (11 Stat., 429), an appropriation of $413,600 was made for pay of certain Florida volunteers in 1857-'58. The accounts of the United States paymasters and quartermasters, by whom these two appropriations were disbursed, show that their payments were exclusively for the periods *after the muster of volunteers into the United States service.* This claim by the State is confined to the period *prior to such muster* and to pay and expenses of troops *never so mustered,* and was not embraced to *any* extent in those disbursements.

The report by the Secretary of War upon this claim was in great detail, and is printed in executive document above referred to. To avoid needless recapitulation I have taken that report as my basis, examining the items in the order therein observed, and specially commenting only upon a few, in respect to which I differ from the conclusions of the War Department.

Voucher No. 2. Abstract A.—F. M. Durance's company.

[Page 6 and Exhibit No. 19, page 30.]

The War Department excluded the service of Second Lieut. Alderman Carlton because the officer's name did not appear on the muster-roll. F. M. Durance, the captain of the company, in a report to General Jesse Carter on June 14, 1856 (*vide* Journals General Assembly 1856, Indian Affairs, page 20), mentions the services of Lieutenant Carlton, and the killing of this officer by Indians on that day. The omission to report him no doubt arose from the fact that the muster-roll was not made up until after August 22, 1856. At this date Joseph Howell was second lieutenant of the company, he having been elected on June 20, 1856, to succeed Lieutenant Carlton. The evidence of service is satisfactory; I therefore allow the item of $410.49.

Claimed by the State for this company	$15,794.91
I disallow for reasons stated in War Department report	378.70
allow	15,416.21

Voucher No. 10. *Abstract A.—A. J. T. Wright's company.*

[Page 6 and Exhibit No. 27, page 52.]

Included in the disallowances was an item of $105.45 in the payment to James S. Turner, for the reason that Turner receipted for the entire term, whereas the muster-roll shows that after June 3, 1856, Elisha Gibson served as Turner's substitute.

The fact may have been that the substitute received his portion either from the paymaster or from Turner, and it may have been arranged between them that Turner should receipt for the whole sum and then compensate Gibson. At all events, the service was performed and the State has paid for it. If Gibson is now entitled to anything his claim would be against the State. The United States is not interested in the question. I therefore allow this item.

Claimed by the State for this company	$9,677.71
I disallow for reasons stated in the War Department report	100.75
I allow	9,566.96

Voucher No. 21, *Abstract A.—John McNiell's company.*

[Page 7.[

The War Department excluded the amount claimed as payment to this company, because the State is not now able to produce the rolls, which have been lost.

There is no doubt of the company's service; also that Captain Pearson paid it, and that his account for such payment was duly rendered to the State and underwent precisely the same process of auditing with the accounts for the payment of the other companies. It must be presumed that Captain Pearson paid this company in accordance with the same rules and scale of prices applied to the other companies.

In the absence of precise information, it is reasonable to suppose that about the same percentage of errors would now be found in the rolls of this company, if they could be produced, which were found in the others.

Claimed by the State for this company	$3,303.06
I disallow 2 per cent	66.06
I allow for reasons above stated	3,237.00

Voucher No. 22, *Abstract A.—Simeon Sparkman's company.*

[Page 7.]

The same remarks apply to this expenditure as are noted in regard to voucher No. 21.

Claimed by the State for this company	$2,967.31
I disallow 2 per cent	59.35
I allow for reasons above stated	2,907.96

Voucher No. 26½, *Abstract A.—Field and staff roll.*

[Page 7 and Exhibit No. 39, page 75.]

The War Department excepted to the amount paid to M. Whit Smith as salary, $1,075.40, on the ground that he was not an officer of a *regiment*, there being no regimental organizations.

The law contemplates the allowance to Florida for reasonable and legitimate expenses of keeping the force in active service. There were eighteen companies, scattered in different localities. For the duties of supplying these companies in all respects the State paid five persons, viz: Jesse Carter (designated as special agent, but in fact discharging the duties of a quartermaster-general and commissary-general), M. Whit Smith, commissioned by the governor (vide Journal, 1856) and acting as a quartermaster and commissary, and three minor officers. This does not seem an over-proportion to the duties, and not in excess of the provision which would be made for the same number of companies in the United States service when widely scattered. The War Department took no exception to the compensation paid Jesse Carter, although it was not upon any scale of any grade in the United States Army, he having been paid a salary as agent, with commissions on disbursements, and reimbursement of office and traveling expenses. If the objections taken in Smith's case were good, they would seem to apply with equal force in Carter's case.

I hold that the State should be allowed this item—as computed by the War Department, $1,075.40. For reasons above stated I also allow items $833, $367.50, and $85.33.

Claimed by the State on this roll	$12,341.49
I disallow for reasons stated in War Department report	2,202.89
I allow	10,138.60

Abstract B.—Subsistence.

[Page 8, and Exhibit No. 42, page 77.]

On this abstract the Commissary-General recommended disallowances aggregating $17,775.13¼, but the judge-advocate (with approval of the Secretary of War) disallowed only items as follows:

Vouchers missing	$2,614.79¼
Voucher not receipted	11,575.59¼
Vouchers unauthorized expenditures	1,755.13
Total	15,945.51¼

The amount stated as $11,575.59¼ is in fact only $9,434.90. The item of $2,140.69 (E. G. Rogers & Co.), and which was made to swell this amount, has no existence. There was no such item on the State's voucher, No. 53 (No. 1, miscellaneous). Hence *so much* of this amount ($11,575.59) was without any other foundation than some clerical mistake. Referring to the residue ($9,434.90) in said amount, and also to the bill of $2,120.56 (E. G. Rogers & Co.), included in the sum of $2,614.79¼ above, I consider that these items should be allowed. There is no room for doubt in any case that the supplies had been actually purchased by and delivered to the State, and had been used by the State in subsisting troops. On all these points the evidence is clear. The presumption of payment is so strong that I do not feel justified in excluding the items because technical receipts are not produced. Excepting about $50 in small items the two amounts represent purchases in large quantities by the State officers on account of the State, from two firms in New Orleans, viz, Post & Mel, and E. G. Rogers & Co. The presumption is very strong that these merchants did not neglect to ask and receive payment of these large bills. The purchasing officers duly rendered their accounts to the State, and these items were included therein as bills which had been paid. Indeed, in one case (voucher 49) it clearly appears that the State commissary had drawn $2,000 from the governor and had sent it *in advance* to Post & Mel to make purchases.

Where, as in this case, the United States is liable only to the State, and in no event to the vendors, there is no occasion for extreme strictness in insisting on the production of technical and formal evidence of the discharge of the debts. It is sufficient that presumption puts it beyond reasonable doubt that the State did actually pay those from whom it made the purchases I therefore allow the items $11,575.59 and $2,120.56.

Claimed by the State on this abstract	$23,474.90
Errors in vouchers to be added	361.54
Correct total of abstract	23,836.44
I disallow for reasons stated in War Department report	2,249.37
I allow	21,587.07

Abstract C.—Forage.

[Page 9, and Exhibit No. 45, page 83.]

On this abstract are four items, $636.85, $641.72, $324, and $350.12 for purchases of forage from Post and Mel, and E. G. Rogers & Co. These items were embraced in the same bills with the items for *subsistence* bought from them (see Abstract B), and the remarks above made respecting the subsistence items apply here. I allow these items, amounting to $952.69. I also allow sundry items, $3, $19.09, $11.66, $19.12, $23.91, and $23.91, aggregating $100.69 for which there are no formal receipts, but where the evidence of purchase and use by the State is substantial.

In the total allowed by the War Department on the forage abstract was included an item of $4,293.52, paid to A. L. Caruthers for corn and fodder for Capt. H. D. Dyche's company, in the period from July 22, 1849, to October 27, 1849.

The allowance was doubtless made through oversight. Probably the fact of the payment being made in October, 1859, misled the examiner into a supposition that the service was in 1859, whereas it was ten years earlier. The act of March 3, 1881, relates only to expenditures incident to the suppression of Indian hostilities between December 1, 1855, and January 1, 1860. I exclude the amount *here*, and consider it in the separate claim for expenditures in 1849.

Claimed by the State on this abstract	$42,279.52
Errors in vouchers to be added	56.00
	42,335.52
Errors in vouchers to be deducted	30.90
	42,304.62
Item of 1849 expenditures deducted	4,293.52
	38,011.10
I disallow for reasons stated in War Department report	5,581.50
I allow	32,429.60

Abstract G.—Ordnance.

[Page 10, and Exhibit No 49, page 94.]

I consider that items $156.50 and $163.40 (vouchers 24 and 61), purchases of Post & Mel, and E. G. Rogers & Co., should be allowed. The evidence is substantial that the State bought, received, and paid for the ordnance—

Claimed by the State on this abstract	$808.43
I disallow for reasons stated in War Department report	300.63
I allow	507.80

Abstract H.—Contingencies.

[Page 10, and Exhibit No. 45, page 89.]

Item of $310.75, which it is claimed was paid by General Jesse Carter. The bill of lading is not intelligible. In the body thereof the items are stated, and aggregate $310.75, but in the heading it is recited that the entire freight (to be paid by General Carter) is $190.23; also in a note thereon the master of the boat was directed by Post & Mel (the shippers) to collect the $190.23 from General Carter, or, if he failed to pay that sum, to reserve certain parts of the cargo for sale to pay said freight. As the evidence stands, it does not seem that Carter paid more than $190.23, and I allow only that sum. I also allow items $65.36, $122.07, $1.65, $289.50, and $177.97 of item $198.10 ($20.13 having been allowed in subsistence account, Abstract B). The evidence is fully satisfactory that Post & Mel, and E. G. Rogers & Co. sold the goods to the State, shipped them to Florida, and were re-imbursed by the State the freight thereon.

Claimed by the State on this abstract	$10,332.84
I disallow for reasons stated in War Department report	470.25
I allow	9,862.59

Abstract I.—Stationery.

[Page 10, and Exhibit No. 45, page 90.]

For reasons stated respecting subsistence (Abstract B), items $44.10 and $50 are allowed.

Claimed by the State on this abstract	$111.11
I disallow for reasons stated in War Department report	6.91
I allow	104.20

EXHIBIT I.

Summary of Third Auditor's allowances for "pay of troops" from December 1, 1855, to January 1, 1860. (Abstract A.)

Company.	No. of roll.	Period of service.		Claim.	Amount allowed.	Amount disallowed.
		From—	To—			
W. B. Hooker	1	Jan. 3, 1856	Feb. 21, 1856	$4,809.57	$4,557.01	$252.56
F. M. Durance	2	Feb. 21, 1856	Aug. 22, 1856	15,794.91	15,416.21	378.70
Do	3	Aug. 22, 1856	Dec. 21, 1856	9,693.00	9,567.92	125.08
William H. Kendrick	4	Feb. 26, 1856	Aug. 28, 1856	16,277.99	16,158.46	119.53
Do	5	Aug. 28, 1856	Dec. 6, 1856	8,906.50	8,832.11	74.39
A. D. Johnson	6	Feb. 26, 1856	Sept. 2, 1856	16,739.85	16,459.66	280.19
Do	7	Sept. 2, 1856	Dec. 20, 1856	8,833.93	8,706.46	127.47
Leroy G. Leslie	8	Mar. 12, 1856	Aug. 20, 1856	14,108.34	13,740.30	368.04
A. J. T. Wright	9	Apr. 28, 1856	May 17, 1856	574.68	544.49	30.19
Do	10	May 18, 1856	Aug. 1, 1856	9,667.71	9,566.96	100.75
John McNeill	11	May 15, 1856	Aug. 12, 1856	2,059.45	2,004.05	55.40
Asa A. Stewart	12	May 18, 1856	Sept. 30, 1856	11,510.89	11,492.31	18.58
Robert Youngblood	13	May 18, 1856	Sept. 30, 1856	5,804.18	5,698.05	106.13
Enoch Daniel	14	May 30, 1856	July 20, 1856	1,994.82	1,981.85	12.97
Wm. B. Hardee	15	June 1, 1856	June 20, 1856	180.14	179.04	1.10
Alexander Bell	16	June 24, 1856	Sept. 30, 1856	3,526.62	3,411.61	115.01
Thomas Hughey	17	Aug. 18, 1856	Sept. 30, 1856	784.40	781.02	3.38
E. T. Kendrick	18	Oct. 23, 1856	Jan. 14, 1857	3,243.36	3,199.16	44.20
John Addison	19	April 8, 1856	Oct. 7, 1856	10,232.43	10,232.43	.....
John Parker	20	Oct. 7, 1856	Dec. 15, 1856	4,556.59	4,023.98	532.61
John McNeill	21	Not stated on abst.		3,303.06	3,237.00	66.06
S. Sparkman	22	do		2,967.31	2,907.96	59.35
R. B. Sullivant	23	do		809.15	809.15	.....
Field and staff	20½	do		12,341.49	10,138.60	2,202.89
Total	.....	.....	.....	168,720.37	163,645.79	5,074.58

NOTE.—Rolls 24, 25, and 26, aggregating $11,316.91, pertain to payments made by the State of Florida for services in 1849, and are not included in above statement.

EXHIBIT II.

General summary of Third Auditor's allowances on items pertaining to Indian hostilities, 1855–'59.

Abstract.	For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
A	Pay of troops	$168,720.37	$163,645.79	$5,074.58
B	Subsistence	23,836.44	21,587.07	*2,249.37
C	Forage	42,304.62	32,429.60	†9,875.02
D	Transportation	19,843.28	17,286.89	2,556.39
E	Camp and garrison equipage	193.81	98.59	95.22
F	Quartermasters' stores	589.67	395.16	194.51
G	Ordnance	808.43	507.80	300.63
H	Contingencies	10,332.84	9,862.59	470.25
I	Stationery	111.11	104.20	6.91
K	Medical and hospital stores	1,362.83	508.82	854.01
	Total	268,103.40	246,426.51	21,676.89

NOTE.—Abstract K includes accounts of J. M. Cooper, J. A. Jarrard, Fred. K. Lykes, and Perry G. Wall for $7.50, $22, $5.90, and $31.25, respectively. (See Colonel Barr's report, pages 91 and 96.)

*The sum of $1,514.52 of the amount disallowed is for subsistence of Captain Dyche's company in 1849, and is commented on under head of expenditures for that period.

†Items $150, $4,410.77, and $4,293.52 of the amount disallowed are for forage for troops in 1849, and are commented on under head of expenditures for that period.

EXHIBIT III.

Summary of sales of military stores (subsistence, forage, etc.), as shown by returns of Jesse Carter, special agent.

Date.	Amount.	Date.	Amount.
Oct., 1856	$80.00	Jan., 1857	$24.55
Nov., 1856	26.27	First quarter, 1857	499.48
Dec., 1856	600.38		
Jan., 1857	114.97	Total	1,405.65

CLAIM FOR EXPENSES IN 1849—DETAILED STATEMENT.

Large payments have already been made to the State on account of expenses incurred in 1849. But upon careful examination it is found that they did not include any of the items embraced in the present claim. The acts of June 30, 1851, and March 3, 1857, under which such payments were made, did not permit the consideration of any items, unless payment thereof had actually been made by the State. As the State had not then paid the items in this claim (and did not pay them until 1859), it was not able to include them in the previous claims.

The claim is as follows:

Voucher 24 A.—Capt. H. D. Dyche's company, July 22 to October 27, 1849	$4,786.43
25 A.—Capt. A. Jernigan's company, July 22 to October 23, 1849	4,929.48
26 A.—Capt. J. O. Devall's company, July 24 to October 24, 1849	1,601.00
53 B.—A. L. Caruthers, subsistence, July 22 to October 27, 1849	1,514.52
77 C.—S. L. Sparkman, forage	150.00
79 C.—A. Jernigan, forage	4,410.77
79 C.—A. L. Caruthers, forage	4,293.52
Total	21,685.72

Vouchers No. 24 and No. 25 A.

The aggregate paid by the State to Captain Dyche's company and Captain Jernigan's company is not in excess of what would have been paid by the United States for similar companies for the same time. I therefore allow the items in full.

Voucher No. 26 A.

Of the aggregate claimed to have been paid by the State to Captain Devall's company, three privates, whose pay is stated at $70.50 each, do not sign receipts, and there is no evidence upon which to base an allowance. Disallowing these items, I allow the balance, $1,389.50.

Voucher No. 53 B.

The item is cost of subsistence for Capt. H. D. Dyche's company of sixty-nine men for ninety-five days. The articles purchased are component parts of a ration, and the prices charged appear reasonable. I therefore allow the item $1,514.52 in full. The State has produced no vouchers and has claimed no re-imbursement for subsisting the other two companies.

Voucher No. 77 C.

In respect to this item of $150 for forage there is no voucher, and no data whatever on which to base an allowance; I therefore exclude it.

Voucher No. 79 C (part).

This item is said to be cost of forage for Captain Jernigans' company. The same general remark applies in this case as is noted in regard to voucher 77 C above, and the amount is disallowed.

Voucher No. 79 C (part).

For cost of forage (corn and fodder) for Captain Dyche's company between July 22, 1849, and October 27, 1849, $4,293.52.

The prices paid, I think, may be accepted as reasonable, and I allow the item claimed. The State has presented no vouchers for forage furnished Captain Jernigan's company or Captain Devall's company.

EXHIBIT IV.

General summary of Third Auditor's allowances on items pertaining to Indian hostilities in 1849.

For what purpose.	Amount of claim.	Amount allowed.	Amount disallowed.
Capt. H. D. Dyche's, company	$4,786.43	$4,786.43	.....
Capt. A. Jernigan's, company	4,929.48	4,929.48	.....
Capt. J. O. Devall's, company	1,601.00	1,389.50	$211.50
A. L. Caruthers, subsistence	1,514.52	1,514.52	.....
S. L. Sparkman, forage	150.00	.....	150.00
A. Jernigan, forage	4,410.77	.....	4,410.77
A. L. Caruthers, forage	4,293.52	4,293.52	.....
	21,685.72	16,913.45	4,772.27

CLAIM OF THE STATE OF FLORIDA.

SEPTEMBER 21, 1893.—Ordered to be printed.

Mr. COUSINS, from the Committee on Claims, submitted the following as the

VIEWS OF THE MINORITY:

[To accompany H. R. 102.]

The minority of the Committee on Claims, to which was referred House bill No. 102, submits the following report, and appends thereto the report of the Senate Committee on Claims of the Forty-ninth Congress, by Mr. Jones, of Arkansas, upon the same subject.

The bill (H. R. No. 102) proposes to pay the State of Florida the sum of $261,934.31 and interest from January 1, 1858, to January 1, 1890, amounting to the sum of $567,954.50, for and on account of money claimed to have been expended by that State in assisting the United States Government to suppress 98 hostile Indians during the years 1856 and 1857, and up to May, 1858.

The facts relating to this claim are so clearly stated in the Senate report of the Forty-ninth Congress (which is hereto annexed, marked A, and made part hereof) that only an abstract of the same is necessary here.

In December, 1855, a band of 25 to 50 Indians attacked a body of 10 men under Lieut. Hartsuff, killing the lieutenant and wounding 3 men. From this hostilities continued until May, 1858.

The greatest number of Indians at any time engaged in hostility was 98.

At the beginning of the so-called "military operations" the United States Government had there in regular service and during the first year (1855) 840 troops; for the first nine months in 1856 the Government had there 866 regular troops and 321 volunteers; from October, 1856, to September 1, 1857, 1,756 regular troops and 1,164 volunteers. These volunteers, besides the regular troops, were under the pay of the Government.

At the time the Government enlisted these four companies of volunteers—two in February and two in March, 1856—the governor of Florida tendered *other* companies to the Secretary of War which were *declined* and were never enlisted into the United States service.

It is for the services and payment of those Florida troops, *tendered* by the governor and refused by the Secretary of War, that the State of Florida now seeks to recover.

The communications between the executive of Florida and the War Department of the United States Government, and the sections of the Constitution of the United States on which claimant seeks to rest the liability of the Government, are set forth in Exhibit A.

There is also set forth in Exhibit A, on pages 9 and 10 thereof, a summary of the appropriations made by this Government, from July

1, 1849, to June 30, 1861, for military services in Florida, which shows an aggregate of $971,353.22, which is rather significant in connection with this question.

In view of all the facts obtainable, the minority recommends, as did the Senate Committee on Claims of the Forty-ninth Congress, that this claim (H. R. 102) be not allowed, for the following reasons:

(1) The State troops tendered by the governor of Florida, for whose services pay is now demanded, were never enlisted or accepted by the United States Government.

(2) There was no sufficient emergency at the time to warrant the governor of Florida to call the State troops into the field, in addition to the adequate number then furnished and paid by the United States Government, the total number of hostile Indians being only 98.

(3) The claim was abandoned by claimant at the very time when its consideration was most proper.

(4) The allowance of this claim, at this time, would establish a wrong precedent under which claims of similar character and of vast sums could be made by other States.

EXHIBIT A.

[Senate Report No. 1962, Forty-ninth Congress, second session.]

This bill passed the House of Representatives at this session (January 27, 1887), and is as follows:

[Forty-ninth Congress, second session. H. R. 3877.]

"AN ACT to authorize the Secretary of the Treasury to settle and pay the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities, and for other purposes.

"Whereas under the joint resolution of Congress approved March third, eighteen hundred and eighty-one, directing the Secretary of War to investigate the claim of the State of Florida against the United States for the suppression of Indian hostilities between the years eighteen hundred and fifty-five and eighteen hundred and sixty, the said Secretary of War did investigate said claim, and ascertained the amount due to the said State to be two hundred and twenty-four thousand six hundred and forty-eight dollars and nine cents, as returned to Congress in the letter of the Secretary of War dated May twenty-second, eighteen hundred and eighty-two, in Executive Document Number Two hundred and three; and

"Whereas there were certain items in said State claim which the Judge-Advocate of the United States Army deemed best to 'be passed upon by the accounting officers of the Treasury, under proper equitable rules provided by legislation in that behalf;' and

"Whereas there is now held by the Treasury of the United States, in trust for the Indian trust fund, certain bonds of the State of Florida aggregating the sum of one hundred and thirty-two thousand dollars; and

"Whereas there has been credited upon the account of said bonds of the State of Florida certain moneys due said State under the act approved March third, eighteen hundred and forty-five, entitled 'An act supplemental to the act for the admission of Florida and Iowa into the Union, and for other purposes;' and

"Whereas certain other moneys are due said State under the act approved March second, eighteen hundred and fifty-five, entitled 'An act for the relief of purchasers of swamp and overflowed lands:' Therefore,

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle and adjust the claim of the said State of Florida, as found and reported in said letter of the Secretary of War dated March twenty-second, eighteen hundred and eighty-two, and under the acts above cited, and to pay to the said State such sum of money as he may find to be due the said State under the aforesaid letter and acts; and in making such settlement he shall retain the whole, or so much thereof as may be necessary, of said allowance or settlement, and apply the same to the payment of the principal and interest, or either, of said bonds of the

State of Florida held as aforesaid, or to the reimbursement of the United States of moneys advanced by the United States on account of interest due on such bonds, and shall demand of said State, and allow to it, upon said claim or claims, for the purpose of such settlement, the rate of interest stipulated in said bonds.

"SEC. 2. That the Secretary of the Treasury shall allow said State to file such further evidence as the State may have to establish the right of the State to demand of the United States the payment of the items of said claim disallowed or suspended by the Secretary of War in the said report of the Judge-Advocate of the United States Army, and to include in such evidence all other payments made by said State for services, and shall adjust and settle the claim of the State therefor, and shall pay such sum as may be ascertained to be due the State thereon. And there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to enable the Secretary of the Treasury to carry out the provisions of this act: *Provided*, That the balance remaining due of the direct tax apportioned to the State of Florida by the direct-tax act of August fifth, eighteen hundred and sixty-one, be held and treated as a proper set-off against the claims of the State of Florida in the adjustment herein required, unless Congress shall otherwise provide by general law, releasing all claims for said direct tax or refunding all payments of such tax heretofore paid.

"SEC. 3. That this act shall take effect immediately upon its passage."

In the preamble, as well as in the bill, it seems to be assumed that the Government of the United States is unquestionably indebted to Florida in the principal sum of $224,648.09, and in the debate upon this bill during this Congress it was said in the House of Representatives that—

"One fact was ascertained beyond doubt by the investigation made by the Secretary of War, that the General Government is indebted to the State in the sum of at least $224,648.09."

The resolution of March 3, 1881, under which the Secretary of War acted, and from which he derived all the authority he had in the investigation referred to in the bill and in the debate, is as follows:

"That the Secretary of War be, and he is hereby, authorized and directed to investigate, ascertain, and report to Congress, as soon as practicable, the amount of the claims of the State of Florida for expenditures made in suppressing Indian hostilities in that State between the 1st day of December, 1855, and the 1st day of January, 1860. In making such investigation the said Secretary is directed to receive and consider such testimony as he may deem necessary or proper for or against claims, including the muster-rolls of the State troops, and such other official data as may be on file in the War Department.

"In submitting his report to Congress the said Secretary shall not include any payments or allowances made by the State in excess of the amounts allowed by law at the time in behalf of troops regularly in the service of the United States." (21 Stat., 520.)

The language of the resolution confers upon the Secretary of War authority to investigate, ascertain, and report to Congress the amount of the *claim* of the State of Florida. This he did in House Ex. Doc. 203, first session Forty-seventh Congress, hereto attached, but he did not attempt to determine any question of the liability of the Government of the United States to Florida, as in fact he had no right to do.

If the language of the resolution above quoted was ambiguous in any degree, the debate had upon it when it was adopted would show the intention of Congress in passing it. Mr. Maxey, a member of the committee reporting the resolution, said:

"It will be observed that in the original resolution the Secretary of the Treasury was directed 'to examine, adjust, and settle the military claims of the State of Florida on account of Indian hostilities, and to allow, according to Army Regulations, such expenditures as were made in good faith prior to the year 1861, etc.'

* * * * * * *

"Thus not only was the Secretary of the Treasury directed to adjust and settle this question of the claim of the State of Florida, but upon that adjustment and settlement, according to his discretion, to pay the amount found due.

"The Military Committee did not believe this to be the correct method. * * * We proposed the substitute which has been read. That substitute provides, &c."

* * * * * * *

After reciting the resolution as quoted above, he continued:

"Thus all that the Secretary of War has to do under the substitute is to audit and adjust this claim of the State of Florida, and when he has adjusted this claim of the State of Florida he presents his report thereon to Congress. It is then for Congress to determine in its own wisdom whether or not the claim of the State of Florida is a valid, subsisting, and just claim."

From this it appears that two questions are now raised by this bill: (1) Shall the General Government pay Florida the amount of her account, $224,648.09? and, if

so (2), shall the Government pay interest thereon at the rate of 7 per cent per annum from 1856 to 1887?

The facts in the case are very briefly stated as follows:

There were "military operations" between the United States on one side and 98 hostile Indians on the other, beginning in December, 1855, and running through 1856 and 1857. The operations were in South Florida, embracing a large tract of country. During these operations the United States Government had troops engaged therein, as follows: In 1855, an average of 840 regular troops; in 1856, for first nine months, 866 regular troops and 321 volunteers; from October, 1856, to September 1, 1857, 1,756 regulars and 1,164 volunteers.

The first act of hostilities was an attack by 25 to 50 Indians upon Lieutenant Hartsuff and 10 men in December, 1855, in which the lieutenant and 3 men were wounded; 4 men were killed and 3 escaped.

On January 7, 1856, the Secretary of War authorized the enlistment of five companies of volunteers, and under the order four companies were enlisted—two on February 18, one on March 1, and one on March 10, 1856—and from that time to May, 1858, there were always four or five companies of volunteer troops in the service and pay of the Government, besides the regular troops.

At the time of the enlistment by the Government in February and March, 1856, of these companies, the governor of Florida tendered other companies to the Secretary of War, which he declined.

Speaking of this the governor, in his message to the legislature on November 12, 1856, says:

"He [the Secretary of War] declined, however, to receive more than five companies, three of mounted men and two of infantry, the latter of which I could only procure to the extent of one detachment.

"The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements.

"I therefore determined to retain in the service of the State the companies of Captains F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abram Johnson, and afterwards added a detachment under Lieut. John Addison, making, rank and file, about 400 men."

The governor sets out his authority for his action in this matter, as well as a report of the conduct of these troops in the message above referred to, as follows:

"On the 12th day of January, 1853, the general assembly passed an act entitled 'An act to provide for the final removal of the Indians from this State, and for other purposes.' The first section of that act makes it unlawful for any Indian to remain in the State. The second section requires the governor to raise a brigade.

"The fifth section provides that the governor shall tender said brigade to the Federal Government for the removal of the Indians.

"The sixth section makes it the duty of the governor, in the event of the Federal Government refusing to accept the services of said brigade, forthwith to secure the frontier settlers and employ the brigade in capturing the Indians, &c. The seventh and ninth sections provide for meeting the expenses of the force. The eleventh section provides that when the Indians commence actual hostilities the governor shall carry this act into execution."

After thus citing the law, the message continues:

"In obedience to the requirements of the act, I attempted, on my inauguration, to raise the brigade. The mounted regiment was readily procured and organized, but the infantry regiment I found it impracticable to recruit. In December last the contingency occurred upon the happening of which the executive was required to carry the law into execution. The Indians commenced actual hostilities by attacking a detachment of United States troops commanded by Lieutenant Hartsuff. This attack was entirely unexpected, and found our frontier population in an unprotected condition. The officer in command of the United States forces was not able to give promptly the protection required for such a line of frontier, and the citizens naturally and properly called upon the State government to protect them in the enjoyment of their lives and property. Before, however, the decision of the executive could be obtained many men from the counties of Manatee, Hillsborough, and Hernando, moved by patriotic impulses, had organized themselves into companies, elected officers, armed, equipped, and rationed themselves, and had marched to the frontier. These companies I promptly recognized as in the service of the State, and instructed them to give efficient protection to the frontier population, and prevent, if possible, the breaking up and abandonment of the settlements. I immediately tendered to the Secretary of War such portion of the brigade as had been raised, and offered to raise the balance at the earliest practicable period. He declined, however, to receive

more than five companies, three of mounted men and two of infantry, the latter of which I could only procure to the extent of one detachment.

"The three mounted companies of volunteers, numbering, rank and file, about 260 men, were all the force of that description that I was advised the Government designed using for frontier protection. This, to my mind, was quite insufficient for the reasonable protection of the country, to say nothing of furnishing pursuing parties when the Indians should make their appearance in the settlements.

"I therefore determined to retain in the service of the State the companies of Capts. F. M. Durrance, L. G. Lesley, William H. Kendrick, and Abner Johnson, and afterwards added a detachment under Lieut. John Addison, making, rank and file, about 400 men. These troops have been employed partly on the frontier and partly in the Indian country. Detachments have, on three several occasions, overtaken and fought the enemy, once recovering a large amount of property (of which they had robbed one of our best citizens), and killing, as was supposed, from four to seven Indians.

"This was effected under Lieut. John Addison without loss. The other two engagements were by small detachments from the companies of Capts. F. M. Durrance, L. G. Lesley, and W. B. Hooker, and were the most gallantly contested actions that have probably ever occurred in Florida. The Indians, having the advantage in point of numbers, appeared determined to destroy their pursuers, and such was the desperation with which they fought that one contest was decided by a resort to pocketknives, in which an Indian was killed by having his throat cut. In these three engagements it is supposed that over 20 Indians were killed and a number wounded, and so thoroughly were they chastised that, although more than five months have elapsed, they have not, as I have been advised, ventured an engagement or even an attack upon the frontiers. In these last two engagements we lost, in killed, Lieutenants Carleton, Whiddon, and William Parker, some of the most gallant spirits of our little army; and while all did their duty nobly, and are entitled to the gratitude of the whole State, the memories of those who perished should be embalmed in every heart.

"For a more detailed account of these gallant actions I respectfully refer to the report of Capt. F. M. Durrance, herewith communicated." (See annexed Exhibit No. 4.)

Colonel Monroe, the officer in command in Florida, reporting to the Adjutant-General, July 6, 1856, says of the volunteers in the service of the United States:

"The mounted volunteers now in service have been drawn from the frontier, many of whom have families, and the protection which it has been found necessary to give them has seriously affected the efficiency and usefulness of these companies for this particular service.

"Numerous points on the frontier at which a large number of families have been collected, the necessity of protecting them and the immediate interest of the volunteers in the families, as well as the locality in which they were necessarily stationed, their domestic obligations and personal interests, have in a great measure led them to attend to their own affairs at the expense of the public, thus interfering greatly with their usefulness and efficiency in the operations of the campaign."

In a report upon a claim by the State of New York for military expenses incurred, Mr. Dolph, from the Committee on Claims, in Report 1438 of second session Forty-eighth Congress, set out the principles upon which these claims are based, and upon which all have been paid which the Government recognized as binding, as follows:

"The principles upon which the States have preferred claims against the General Government for expenses incurred by them in repelling invasion and in suppressing Indian hostilities are predicated upon the fourth section of the fourth article of the Constitution of the United States, which provides that—

"'The United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.'

"And upon the latter part of the tenth section of the first article of the Constitution, which is as follows:

"'No state shall, without the consent of Congress, lay any duty on tonnage, equip troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.'

"There is a long, and we believe an unbroken, line of precedents for the payment of claims of the States and Territories preferred under these provisions of the Constitution for expenses incurred by them on account of volunteers and State militia called out for their protection in cases of invasion, or threatened invasion, and Indian hostilities, where the emergency was such as to require action before the United States could or did take effective measures for their protection."

In the report from which this quotation is made it is believed that every claim of this character ever paid by the Government of the United States was examined,

and this committee feel safe in saying that in no case ever recognized by the United States Government was the expense incurred otherwise than "when the emergency was such as to require action before the United States could or did take effective measures for their protection," and certainly in no case where the State authorities chose to keep in service troops that the National Government had distinctly declined.

Considering the number of the enemy and the number of troops in the Government service, their certainly was no such *emergency* as required the governor of Florida to call the State troops into the field, and under no other circumstances is the State entitled to pay for them.

This claim against the Government does not seem to have been much thought of in Florida at the time. In 1856 the Government appropriated $240,000 to pay Florida troops. In the spring of 1857 $92,000 was paid to Florida on account of Indian hostilities. She filed two accounts against the Government in 1857, and this is not mentioned, and when in 1859 the governor suggested that it was the debt of the Government and asked the legislature to instruct their delegation in Congress to take action in the matter a resolution to that effect was introduced, but no notice was taken of it, not even a vote had on it, and this, too, in the very year in which the Government appropriated $413,000 to pay Florida troops.

In fact, when the Secretary of War began the investigation under the resolution of 1882, he had to send to Florida to get up the data upon which this claim is now based, as appears by the following:

WAR DEPARTMENT,
Washington City, March 24, 1882.

SIR: I have the honor to request to be furnished with a transcript, under seal of the State, of the financial statement of Capt. J. W. Pearson, disbursing agent of the State of Florida, under date of November 30, 1859, exhibiting expenditures made in settlement of militia claims for service in the year 1856, and also transcripts, under seal of the State, of any other financial exhibits to be found on the records of the State showing the amounts expended by the State for expenses incurred in suppressing Indian hostilities in Florida between the 1st day of December, 1855, and the 1st day of January, 1860.

This evidence is required to enable this Department to properly comply with the provisions of the joint resolution approved March 3, 1881, directing an investigation as to the amount and character of the disbursements referred to.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. WILLIAM D. BLOXHAM,
Governor of the State of Florida, Tallahassee, Fla.

It seems that in 1859 payment was asked of Congress, and a report was made by the Secretary of War, John B. Floyd, in House of Representatives Ex. Doc. 38, second session Thirty-fifth Congress. This report was made to the chairman of the Committee on Ways and Means, and as that committee at that time was the Committee on Appropriations, this was probably an effort to get whatever was asked for put in an appropriation bill, and this seems to have been declined. This Ex. Doc. is printed herewith.

There is, however, an effort to support this claim by setting up that there was a subsequent recognition of the fact that it would have been well for the Government to have employed these troops. In reporting the resolution of March 3, 1881, for adoption, Mr. Plumb, from the Committee on Military Affairs, used the following language:

"On the 8th of May, 1857, the governor of Florida addressed a communication to the Secretary of War, setting forth at considerable length his action in calling for troops, the service in which they were employed for the protection of the citizens, and the faithful manner in which they acquitted themselves. He called special attention to the fact that these forces had acted in effective co-operation with the United States troops; and to emphasize the necessity of the course he pursued, he alluded to the circumstance that when Brigadier-General Harney was subsequently ordered to the command in Florida he felt it necessary, in addition to a greatly increased regular force, to make requisition for ten mounted and five foot companies of volunteers, "being," as the governor remarks, "a much larger volunteer force than had at any previous time since this last outbreak occurred been employed by the Federal and State authorities combined, thus fully indorsing and vindicating the action of the State in this matter." The governor concluded his letter by asking the Secretary of War, in behalf of the United States, "to approve and adopt the service."

Upon this letter of Governor Broome's are indorsements of the Paymaster-General and Adjutant-General, reciting that according to the precedents it was only necessary

for the President to recognize the troops as having been in the service of the United States and direct that they be mustered in and out of service, when they could be paid upon an appropriation therefor being made by Congress. The Adjutant-General recommended that "an officer be sent as soon as possible to muster them in and out of the service of the United States," which recommendation was approved by the Secretary of War, who notified the governor as follows:

WAR DEPARTMENT,
Washington, D. C., May 21, 1857.

His Excellency JAMES E. BROOME,
Governor of Florida, Washington:

SIR: I have the honor to acknowledge the receipt of your letter of the 8th instant, asking an approval of the service of certain volunteers called out by you, and in reply to inform you that the explanation as to the necessity of their services is satisfactory, and orders have been issued to the officer commanding in Florida to muster them in and out of the service of the United States.

Very respectfully, your obedient servant,

JOHN B. FLOYD,
Secretary of War.

The official order mentioned in the forgoing letter is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, D. C., May 21, 1857.

SIR: I have the honor herewith to transmit a copy of a letter addressed by the governor of Florida, under date of May 8, 1857, to the Secretary of War, respecting volunteers called out by the former to suppress Indian hostilities in Florida, but never regularly mustered into the service of the United States.

The services of these volunteers having been recognized and approved by the President, the Secretary of War directs that you cause one of the officers of your command to muster into and out of the service of the United States, as soon as practicable, the troops indicated by Governor Broome, to the end that they may be paid whenever Congress shall make the necessary appropriation for the purpose. A supply of blank muster rolls will at once be sent to your address.

I am, sir, very respectfully, your obedient servant,

S. COOPER,
Adjutant-General.

COMMANDING OFFICER,
Department of Florida, Tampa, Fla.

On the 7th of July following the governor wrote to the Secretary of War, stating that it had been found to be impracticable to muster in those troops, as directed by the Secretary, they having long since been disbanded, and it being impossible again to assemble them at any one point. The governor suggested that the muster be made from the properly certified rolls of the State. To this the Secretary replied that no officer could make a constructive muster, as suggested, but that to certify the rolls he must have mustered the troops present. The Secretary adds:

"Under the circumstances the only course left for the Department is to receive as official the State rolls, duly certified by the State authorities, and to base upon them a recommendation to Congress for the appropriation necessary to pay off the troops. This course will obviate the difficulties mentioned by you on account of the disbandment of the volunteers in question."

This letter of the governor of Florida is not now amongst the papers in the case, and this committee have been unable to procure a copy of it at the War Department, but they accept as correct the statement of its contents as above; but they respectfully submit that the apparent effort of the Secretary of War to muster troops by a sort of *nunc pro tunc* proceeding into the Government service was unauthorized, especially after he had declined to accept these troops before the alleged service.

All this correspondence, too, was with reference to presenting the matter to Congress.

But even if it be admitted that there was an effort by the President and the Secretary of War to commit the Government to an obligation to reimburse the State without Congress being notified that there was a necessity for the employment of these troops, it was without authority and not binding upon the Government.

Besides this, the "official State rolls" do not appear to have been filed in compliance with the suggestion of the Secretary. In this connection the following letter is of interest:

TREASURY DEPARTMENT, *February 2, 1887.*

SIR: In reply to the telegram of the Senate Committee on Appropriations of the 29th ultimo, to be informed what payments have been made to the State of Florida

under acts of Congress between 1850 and 1861 for suppression of Indian hostilities in that State, and how the account of said State with the United States stands at this date, I have the honor to transmit herewith the reports of the Third and Second Auditors of the 31st ultimo and 1st instant, respectively.

Respectfully, yours,

D. MANNING,
Secretary.

Hon. WILLIAM B. ALLISON,
Chairman Committee on Appropriations, United States Senate.

TREASURY DEPARTMENT,
Third Auditor's Office, January 31, 1887.

SIR: In response to your request of this date for information in respect to claims by the State of Florida for reimbursement of expenditures in suppressing Indian hostilities, I have the honor to make the following statement:

Two claims of that description appear on the records of this office. Claim No. 1496, presented July 12, 1851, for expenses in Seminole war:

The total claimed was $73,665.03, whereof items aggregating $37,165.38 were extracted and transmitted to the Second Auditor, as coming within his province, leaving for adjudication by this office	$36,499.65
In March, 1852, additional items and evidence were presented, aggregating	867.82
	37,367.47

Allowances have been made thereon as follows:

Sett.	Date.	Principal.	Interest.	Total.
555	November, 1851	$26,060.48	$2,583.84	$28,644.32
1227	May, 1852	1,469.52	635.84	2,105.36
1953	November, 1852	51.50	10.93	62.43
6567	December, 1854	505.24	138.71	643.95
	Total			31,456.06

Thirty three years having elapsed since the latest of these allowances, it is presumed that nothing further is justly due.

Claim No. 2732, presented April 18, 1857. This claim was soon withdrawn by the governor of the State, as probably included in a claim presented to the Second Auditor.

Claim 2800 was presented October 13, 1857, as a substitute for the above:

For hostilities in 1849		$5,950.56
For hostilities in 1852	$2,606.24	
Interest on latter item	623.28	
		3,229.52
		9,180.08

Intermingled with this—though in no way germane to it—was a demand for $21,535.06, as interest on a sum of $92,788.10, said to have been allowed by the Second Auditor.

The Secretary of War disallowed this demand for interest, and suspended the claim for $9,180.08 for further evidence, per his decision of May 16, 1859.

No further action seems to have been taken, and no further payments have been made through this office.

JNO. S. WILLIAMS,
Auditor.

The SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT, SECOND AUDITOR'S OFFICE,
Washington, D. C., February 1, 1887.

SIR: In compliance with your indorsement of the 31st ultimo on a telegram from the Senate Committee on Appropriations, I have the honor to transmit herewith a statement of payments made to the State of Florida, under acts of Congress, between 1850 and 1861, for the suppression of Indian hostilities in that State.

With regard to the status of the accounts of the State of Florida I have to say that all such accounts as have been presented to this office have been paid with the exception of a portion of one filed in 1857, under the act of March 3 of that year. Said account amounted to $113,345.87, of which the sum of $92,788.10 was paid May 26, 1857. The remainder, $20,557.77, was not acted upon in consequence of a request of the governor of Florida, who requested a suspension of action on all of the claims of his State except the amount certified by the comptroller of public accounts, amounting to $92,788.10. For an explanation of this matter please see inclosed copy of a letter of the Second Auditor to the Secretary of War, dated May 22, 1857.

Very respectfully,

J. B. CALDWELL,
Acting Auditor.

The SECRETARY OF THE TREASURY.

Thus it appears that the governor filed an account for "Indian hostilities" on April 18, 1857, withdrew it and refiled it on October 13, and after this correspondence no demand was made on account of the claim now presented. The next heard of this claim in point of time is the following from the message of the governor of Florida on December 9, 1859:

"It has always been claimed, and I believe never denied, that the duty of suppressing Indian hostilities devolved upon the General Government, and that Government had long ago endeavored to effect their removal, and assumed the right to permit them to remain in the State, and withdrew the protection which the people had a right to expect. On the breaking out of hostilities the people on the frontier, for want of the protection which it was the duty of the Federal Government to give, found it necessary to embody themselves and perform the service which the exigencies of the times imposed upon them, and in doing so they had to abandon their usual occupations and suffer all the privations incident to an exposed frontier life. Under these circumstances the State felt it due to her own citizens to provide for their payment, relying on the justice of the General Government to refund to her the amount which she felt it her duty to pay.

"The justice of such a demand can not rightfully be disputed, and it is hoped will at once be recognized. I therefore recommend that the general assembly will, either by memorial or resolutions, or such other mode as they deem best, request of Congress the passing of a law refunding to the State the amount she has expended."

On the 21st December, 1859, 12 days after the governor's message, Mr. McElvy introduced a resolution into the State senate calling upon the members of Congress and Senators from Florida to procure the passage of a law refunding to the State $241,300 for money paid troops.

This resolution seems never to have received any consideration at the hands of either branch of the general assembly, and the only other suggestion of a belief upon the part of anybody that Florida had a claim against the Government on this account is to be found in the fact that—

"Agreeably to notice, Mr. Yulee asked and obtained leave to bring in a bill (S. 342) to refund to the State of Florida certain moneys advanced by said State for military services; which was read the first and second time, by unanimous consent, and referred to the Committee on Military Affairs and the Militia."

As appears from the Congressional Globe of March 31, 1860, first session Thirty-sixth Congress, upon this no action was had.

In this connection attention is called to the following:

List of appropriations for payment of military services in Florida from July 1, 1849, to June 30, 1861.

Fiscal year ended June 30, 1850:	
Payment of certain military services in Florida, act March 3, 1845 (5 Statutes, 745)	$925.75
Payment of balances due the Shawnee Indians for services in the Florida war, resolution March 3, 1845 (5 Statutes, 800)	13,701.60
Fiscal year ended June 30, 1851:	
Reimbursing the State of Florida for expenses incurred, &c., act February 27, 1851 (9 Statutes, 573)	75,000.00
Preventing and suppressing Indian hostilities in Florida, act February 27, 1851 (9 Statutes, 571)	75,000.00
Payment to Delaware Indians serving in Florida war, Sec. 3, act September 30, 1850 (9 Statutes, 559)	12,648.37
Fiscal year ended June 30, 1852:	
Payments for certain military services in Florida, act March 3, 1845 (5 Statutes, 745)	452.72

Fiscal year ended June 30, 1853:		
Pay of Florida militia on account Quartermaster's Department, act March 3, 1853 (10 Statutes, 184)	$4,537.08	
Arrearage pay due Florida militia under General Read, act March 3, 1853 (10 Statutes, 184)	7,241.93	
Pay of Florida militia on account of subsistence, act March 3, 1853 (10 Statutes, 185)	1,039.39	
Payment of the companies of Captains Bush, Price, and Suarez for military services in Florida, act February 14, 1853 (10 Statutes, 755)	28,346.65	
Pay certain military services in Florida, act March 3, 1845 (5 Statutes, 745)	404.11	
Payment of expenses for defense of Florida, act of May 28, 1836 (5 Statutes, 33, 34)	5,000.00	
Fiscal year ended June 30, 1857:		
Pay and supplies of mounted and foot companies of Florida volunteers, act August 30, 1856 (11 Statutes, 150)		$240,667.52
Settlement account, State of Florida, for advances to volunteers, sec. 11, act March 3, 1857 (12 Statutes, 204)	92,788.10	
Fiscal year ended June 30, 1859:		
Pay of certain Florida volunteers in 1857-'58, act March 3, 1859 (11 Statutes, 429)	413,600.00	
		971,353.22

The next step taken after Mr. Yulee introduced his bill seems to be the resolution, commented on by General Maxey in 1880, proposing to direct the payment of $240,300, which was not entertained, and an investigation was ordered by the resolution of November 3, 1881, instead. Upon the report in obedience to that resolution, finding that Florida did expend $224,648.09, this claim, assuming that this is an admitted liability of the United States and claiming interest thereon, is based.

The argu ment most strongly urged upon this committee for the payment of intertest in this matter is the fact that the Government holds certain bonds of Florida for the Indian trust funds, and that as these bonds bear interest the Government ought no pay interest. There is nothing in the argument. The State of Florida sold her bonds to this fund with interest stipulated. The United States Government, having no pecuniary interest in the matter and no connection with it except as trustee, is no more affected by this contract between Florida and this fund than she would be by a contract between Florida and any other creditor with whom she had made a contract.

The Committee on Military Affairs of the Senate have twice rejected this claim of interest, and have twice reported in favor of paying the principal, and at the same time have reported in favor of releasing Florida from her interest on her bonds to the Indian trust fund.

This committee cannot agree to this conclusion, and, in fact, nobody seems satisfied with that; for that proposed settlement was vigorously opposed by the governor of Florida in 1884, as will appear by the following letter, written to Senator Jones of that State:

EXECUTIVE OFFICE, *Tallahassee, Fla., April 11, 1884.*

DEAR JONES: Your favor of the 7th has been received and considered. After advising with many members of our State government, I sent the telegram about the Indian claim. Now, my dear Senator, I will give you our reasons, according to the settlement proposed in the Hampton report. The State would receive the difference between the $224,000 allowed by the Secretary of War and the 132,000 of our bonds held by the Indian trust fund, or $92,000 in cash and our 132 bonds.

Governor Drew made a contract with Mr. Wailes to allow him 15 per cent. I supposed, when we assented at last Congress, that it was 15 per cent upon the money we received. But Mr. Wailes claims the 15 per cent on the money, and on the 132,000 bonds and on the interest due on those bonds, or the coupons representing said interest. When in Jacksonville last February Mr. Wailes and myself called on Governor Drew, and he interpreted the contract as Mr. Wailes did. Now, take $132,000 in bonds, interest on same $240,000, and $92,000 in cash, making $464,000, upon which Mr. Wailes would claim 15 per cent interest, you see at once, after deducting his commission from the cash we receive, there would be but an insignificant sum to turn into the treasurer. It would be too small to be satisfactory. I think it had better go over than, practically, for all we receive in cash, to go in the shape of commissions.

Believe me, your friend, truly,

W. D. BLOXHAM.

Hon. C. W. JONES,
United States Senate.

The Government has paid interest upon claims where States have "met the expenses of the war in the place of the United States." When States, "having taken the place of the United States," made "advances for the United States," &c., and when, "not having the money herself nor able to procure it from the United States," a State has borrowed it and paid interest, in such cases the Government repays the interest actually paid, but as in this case this committee do not believe there is any just claim for the principal sum, it is useless to discuss the question of interest, though it may not be amiss to say that nothing appeared in the papers in this case, when this committee began this investigation, to show what rate or amount of interest Florida had paid in this matter.

The following appears on page 5 of Ex. Doc. 203, above referred to:

"On December 20, 1859, as appears from page 113 of a journal of the proceedings of the senate of the general assembly of the State of Florida, covering that date, a resolution was introduced in the senate calling upon members of Congress from Florida to procure the passage of a law refunding to the State the sum of $241,300, advanced by the State on the payment of Florida troops. This sum is the amount of the loan negotiated by the State upon which $222,015 was realized and placed in the hands of Capt. J. W. Pearson for disbursement. All the amounts set forthin the transcripts furnished by the governor were, it is to be remarked, expended pror to the date when this resolution was offered. These discrepancies of statementas to amounts expended, coupled with the loss and destruction of certain vouchers during the war of the rebellion, serve to greatly embarrass a consideration of the claim as submitted."

It seems that no further explanation has been made than is found in the message of the governor of Florida, set out on page 15 of that document, as follows:

"When the Indian outbreak occurred, the money markets of the world were in such a condition as to forbid even the hope of negotiating a dollar upon the terms to which I was limited by the act of January 12, 1853. The impossibility of procuring subsistence and forage, except to a limited extent, forbade my calling into the service of the State such a force as would have protected the frontier and promptly captured or humbled the enemy. Under these circumstances I was compelled to limit the force to four companies and a detachment. These I provided for temporarily by using the contingent fund and borrowing the small balance remaining uninvested of the school and seminary funds. Having made this temporary provision, I proceeded to Washington City, with the hope of inducing the War Department to accept the services of a brigade of volunteers, or, at all events, receive the companies retained by the State. I did not, however, succeed in either, but received assurances of the determination of the Government to remove the Indians by force, and to use such an amount of force for that purpose as could be profitably employed. The correspondence upon this point with the War Department is herewith communicated for the information of the general assembly.

* * * * * * *

"Having failed to effect what I desired at Washington, and having determined to continue in the service of the State such a mounted force as was deemed sufficient to give reasonable protection to the frontier, I found myself compelled to negotiate for money on terms not authorized by the statute. I negotiated a loan in the city of Charleston for $30,000, at an interest of 7 per cent per annum, to be returned at some early day after the adjournment of the present session of the general assembly. This fund has been reserved for the purchase of subsistence and forage and for the payment of incidental expenses, and will at an early day be exhausted. I respectfully invite the general assembly to appoint a committee to examine and report upon this loan and the disbursement of the funds made by my special orders."

The attention of the governor of Florida having been called to this state of facts, he wrote the following:

WASHINGTON, D. C., *February* 15, 1887.

SIR: In answer to your question I have the honor to say that the bonds issued by the State of Florida, to which yon allude, other than the $132,000 now held by the United States Treasurer, were of the same issue and bear like rate of interest; that is to say, 7 per cent per annum.

In short, all the money paid out by her, as appears by Ex. Doc. No. 203, Forty-seventh Congress, first session, and which she asks the United States to refund to her, was borrowed by the State at 7 per cent interest per annum. And she has paid that rate of interest upon all the loan, except that she has not paid the interest which has accrued on the $132,000 held in the Treasury of the United States.

Very respectfully,

E. A. PERRY,
Governor of Florida.

Hon. J. K. JONES,
United States Senate.

This committee therefore recommend that the bill do not pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 5.

DISTRIBUTION OF BOOKS AND DOCUMENTS.

SEPTEMBER 11, 1893.—Ordered to be printed.

Mr. RICHARDSON, from the Committee on Printing, submitted the following

REPORT:

[To accompany Mis. Doc. 25.]

The Committee on Printing have considered House resolution introduced by Mr. Grosvenor, of Ohio, in reference to the distribution of books and documents and direct me to report same with an amendment, which is herewith submitted.

As amended they recommend that the resolution be adopted.

AMENDMENT.

Amend by striking out the following words, beginning in line 13:

"And transmitted to their residences as fast as printed, or distributed through the folding room of the House, as has been customary."

O

53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { REPORT No. 6.

F. Y. RAMSEY.

SEPTEMBER 12, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 509.]

The Committee on Claims, to whom was referred House bill 509, having considered the same, submit the following report:

That from the year 1845 to April 30, 1861, the late Joseph Ramsey was collector of customs and superintendent of lights, district of Plymouth, N.; C. that his accounts were balanced on said 30th day of April, 1861, showing that the Government owed him $430.42; that this balance has never been paid and still stands to his credit on the books of the Treasury Department, as shown by letter filed with the papers, dated April 16, 1890; that Joseph Ramsey is dead, and that F. Y. Ramsey is his heir at law and distributor.

Your committee is of the opinion that this bill should pass and so recommend.

TREASURY DEPARTMENT, OFFICE OF COMMISSIONER OF CUSTOMS,
Washington, D. C., April 10, 1890.

SIR: I am in receipt, by reference, of your letter dated the 2d instant, addressed to the honorable the Secretary of the Treasury, inclosing a letter written to you under date of March 15, 1890, by Fletcher Y. Ramsey, in relation to a balance of $590 claimed to be due from the United States to his father, Joseph Ramsey, deceased, formerly collector of customs and superintendent of lights, district of Plymouth, N. C.

It appears from the records of this Department that Mr. Joseph Ramsey was collector of customs for several years at the port of Plymouth, N. C., and that his accounts were adjusted to April 30, 1861, and a balance of $590.59 was found due him on his account as superintendent of lights.

Of this amount the sum of $160.17 was used to settle other accounts on which he was a debtor to the Government, as follows, viz:

Under his official bond of March 1, 1859:	
On account of customs	$51.19
On account as disbursing agent for expenses of collection	47.92
On account as disbursing agent for marine hospital fund	39.31
On account of customs, bond dated July 1, 1853	.54
On account of customs, bond dated August 29, 1846	21.21
Total	160.17

Leaving a balance of $430.42 still standing to his credit on the records of the Treasury, payment of which is prohibited by section 3480, Revised Statutes.

Respectfully submitted.

H. A. LOCKWOOD,
Acting Commissioner of Customs.

Hon. B. H. BUNN, M. C.,
House of Representatives, Washington, D. C.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 7.

PUBLIC PRINTING AND BINDING, AND THE DISTRIBUTION OF PUBLIC DOCUMENTS.

SEPTEMBER 12, 1893.—Ordered to be printed and recommitted to the committee.

Mr. RICHARDSON, of Tennessee, from the Committee on Printing, submitted the following

REPORT:

[To accompany H. R. 2650.]

The committee have considered H. R. 214, being a bill providing for the public printing and binding and the distribution of public documents, and direct me to report therefor a substitute bill, which is herewith submitted, and the passage of which they recommend.

The substitute is the same as that reported by the Committee on Printing of the last House.

It is substantially the same bill which passed the Senate during the last Congress. That bill was prepared by a joint committee of the two Houses, which consisted of Senators Manderson, Hawley, and Gorman, with two members of the House, Mr. Russell and the writer of this report. This committee was appointed and prepared the bill under a concurrent resolution of the two Houses of Congress, passed on the last day of the Fifty-first Congress. The bill is the result of much labor, investigation, and thought on the part of that committee. As stated the bill passed the Senate during the last session of Congress, and was considered by the House, and after being amended in some particulars passed that body, but the House amendments were never considered by the Senate, and hence it did not become a law.

The concurrent resolution creating the committee directed them to examine into the numbers printed of the various documents, reports, bills, and other papers published by order of Congress, or of either House thereof, and of the Congressional Record, and to report a bill to the Fifty-second Congress, making such reductions in the numbers and cost of printing, and such changes and reduction in the distribution of said publications as they may deem expedient. The committee was also instructed to investigate the printing and binding for the Executive Departments executed at the Government Printing Office and at the branch printing offices and binderies in the various Departments, making such reductions in expenses and imposing such checks as they may deem expedient, and, further, to make any other investigations calculated, in their opinion, to reduce the cost of the public printing.

The committee was instructed to submit a report showing the result of their labors and investigations, as stated, to the Fifty-second Congress. This committee assembled in the city of Washington on the

13th day of April, 1891, and proceeded to make the investigations ordered by the concurrent resolution. It will be seen from an analysis of the instructions of the committee given in the resolution that it was intended by Congress that the investigation made should be far-reaching and should cover the entire field of public printing for the Government.

This, of course, means all the printing done at the Government Printing Office for the two Houses of Congress, and all the Executive Departments and bureaus of the Government. The testimony of nearly forty witnesses was taken by the committee, most of whom are connected officially with the public printing and binding, and distribution of public documents, and who were well qualified to give evidence upon the points involved in the investigation.

The testimony of these witnesses will be found in the appendix to the report of the joint committee made to the Fifty-second Congress. The report submitted by the committee is full on all the questions involved. In addition to the testimony of the witnesses who were called before the committee, there is much evidence also submitted with the report, brought out in response to letters addressed to the various heads of the Departments, and questions propounded to them. The committee has given most careful attention to the testimony of all these witnesses and all the evidence which was elicited. All the sections of the Revised Statutes and of the supplements thereto, and they are very numerous, which in any manner provide for and regulate public printing, have been carefully gone over by the committee and a revision made thereof. The committee entered upon its labors with one chief object, which was the reduction of the quantity of printing and the cutting down of the cost thereof to the Government. They were in full accord with the sentiments so often expressed by members of Congress and other intelligent persons that there was too much printing being done.

Their efforts and energies were all turned in the direction of economy in this branch of the public service. While they realized that there was just complaint at the large quantity of printing done, they further realized another complaint equally as serious and well founded, and that relates to the distribution of public documents. When it is remembered that documents printed for the Government are distributed from many different sources, it will readily occur to anyone that the distribution could justly be complained of. For instance, documents are distributed by Senators, by Representatives, by the Executive Departments for which they are printed, and by the superintendent of documents in the Interior Department, thus making four distinct sources from which the same document might be and often is sent to the same person. Under the present system of distribution it is not possible to prevent frequent duplication of documents; it is true that the same document may be lawfully sent from each of these four sources to the same person.

It was made to appear to the committee that in one instance the same document, a most valuable one, too, was sent by forty different persons to one man. This was a gross abuse, and calls loudly for some provision to prevent its repetition. The committee, of course, do not, claim for this measure that it is perfect. The difficulties which presented themselves and the obstacles they were called upon to surmount were too great to be overcome by one measure. They hope, however, that there will be found in the bill under consideration such reforms and the institution of such methods as will eventually bring about remedies for all the evils complained of.

The committee found the laws which govern the public printing and binding and the distribution of documents in a condition which can almost with propriety be called chaotic. They have endeavored to arrange all the laws on the subject in a methodical and orderly way.

The first seventeen sections of the bill relate to the Joint Committee on Printing, their powers and duties. These sections embody substantially the provisions of existing law as found in the Revised Statutes and the supplements thereto.

From section 18 to 44, inclusive, will be found the duties of the Public Printer. These sections also are nearly all taken substantially from existing laws. When alterations are made therein they will be shown later in this report with the reasons therefor. The next ten sections up to and including section 54 relate to the employés of the office. These sections are substantially the law at present. The matter of printing for Congress is covered by the bill, beginning with section 55.

The question of printing for the Departments is treated of, beginning with section 77.

The bill abolishes the office of superintendent of documents in the Interior Department, and imposes the duties heretofore discharged by him upon the clerk of the Joint Committee on Printing. The bill provides for this officer. It is intended that all the surplus books and documents in the various Departments, as well as all those in the basement of the Capitol building not belonging to the quota of members of Congress, shall be distributed by him.

The books and documents of members will be distributed as heretofore, from the folding rooms of the Senate and House, except when Senators and members themselves order otherwise. The committee are of the opinion that there is great room for improvement in the distribution of governmental publications. They think this bill provides a remedy for the evil in this matter. The bill provides that there shall be one document room in the Senate and one in the House. There are now two document rooms in the House. There can be no good reason why the House should maintain two document rooms. One document room in the House is under the Clerk, the other under the Doorkeeper.

Under the law at present one bound copy of every publication is required to be sent to each member. They are sent through the Clerk's document room. This is the heaviest labor imposed upon that room. The bill changes the law in this particular by providing that it shall be optional with a member to take or not to take these publications. It permits him to have one copy of every publication bound for his own use when he desires to do so, but it does not require him to receive them all. It is believed by intelligent witnesses who testified before the committee that not more than one third of all these publications will be called for if the law is modified as proposed.

This large reduction being made, the necessity for the Clerk's document room is removed or greatly lessened. Inasmuch, however, as the volumes ordered heretofore by Congress have not all been handled, but are being handled and disposed of now in that room and are to be sent out when ready for distribution through that medium, and in view of the fact that more or less of confusion will ensue by the discontinuance of that room and the force there employed by a change made during a session of Congress, the bill provides that the abolishment of the room shall take place with the closing of the Fifty-third Congress.

The entire matter of printing for the Executive Departments, which is vast and intricate in its detail, has been carefully gone over by the committee. Congress may enforce rigid care and economy in public

printing, yet if Departments are allowed to print without limitations or restrictions it is plain that existing evils will be only partially cured. The effort is made to place an effective check on the Departments and to largely reduce their printing. The appropriations for printing and binding made by Congress for the fiscal year ending June 30, 1891, amounted in the aggregate to $3,674,759.50. The amount included in this sum for printing and binding for Congress was $1,973,784.50, while that for the Executive Departments amounted to the sum of $1,346,000. The necessity for imposing restrictions on departmental printing is, therefore, quite apparent. For fiscal year ended June 30, 1893, the appropriations were $3,543,764, for Congress being $1,547,164.20 and for Departments $1,423,500.

The committee will now refer in detail to each section of the bill.

Section 1 is nearly identical with section No. 3756 of the Revised Statutes of 1878. The change is an unimportant one, leaving out that the Joint Committee on Printing shall be appointed by the President of the Senate and Speaker of the House. The word "public" is omitted, making the committee a committee on printing instead of a committee on public printing. This change is made throughout the whole bill.

In section 2 the committee has expunged from section No. 3757 of the Revised Statutes of 1878 the words requiring that as to measures to remedy neglect or delay in the execution of the public printing the approval of one or the other House of Congress, or of both when the printing delayed relates to the business of both, shall be obtained. It seemed to the committee that this approval of their action in each instance by Congress would produce delay and defeat rather than advance efforts to prevent neglect or delay. The committee have added to this section the power in the Committee on Printing of either House to order 300 copies of a public bill to be printed when the supply shall have become exhausted. This is new legislation, recommended by the superintendents of the document rooms of both Houses.

Section 3 is substantially the present law, as found in sections Nos. 3767 and 3769 of the Revised Statutes of 1878. The committee have added the cities of St. Louis and Chicago as places for advertisement for the supply of paper.

Section 4 is identical with section No. 3768 of the Revised Statutes of 1878.

Section 5 is identical with section No. 3770 of the Revised Statutes of 1878.

Section 6 is identical with sections Nos. 3772 and 3771 of the Revised Statutes of 1878.

Section 7 is substantially the present law, as found in section No. 3773 of the Revised Statutes of 1878.

Section 8 is identical with section No. 3774 of the Revised Statutes of 1878, with the addition of "or by the Secretary of the Interior when Congress is not in session," to make it correspond with sections 9 and 11 of this bill and section No. 3775 of the Revised Statutes.

Section 9 is identical with section 3775 of the Revised Statutes of 1878, with this exception: The omission of the words "either as to time of delivery or as to quantity, quality, or weight of paper."

Section 10 is identical with sections 3776 and 3777 of the Revised Statutes of 1878, except the substitution of the word "sureties" for "securities."

Section 11 is identical with section 3778 of the Revised Statutes for 1878, except the substitution of the word "Public" for "Congres-

sional." This change is made throughout the whole bill, as the words "Public Printer" is now his title instead of "Congressional Printer."

Section 12 is identical with an act to further regulate the purchase of material for the public printing and binding, found in the Supplement to the Revised Statutes, chapter 10, page 305.

Section 13 is substantially the present law, as found in the Supplement to the Revised Statutes, page 617, or Statutes at Large, volume 21, page 516, joint resolution providing for printing and the distribution of the index to the Congressional Record semimonthly.

Section 14 is substantially the present law, as found in the Supplement to the Revised Statutes, page 617.

Section 15 is substantially the present law, as found in the Supplement to the Revised Statutes, volume 1, second edition, page 397.

Section 16 is substantially the same as the present law, as found on page 233 of the Supplement to the Revised Statutes, or in volume 19, Statutes at Large, page 102.

Section 17 is new and is urged for the reason that the interests of the public service sometimes require the action of a committee when there is no joint committee in existence.

Section 18 is substantially the present law, as found in sections 3758 and 3759 of the Revised Statutes of 1878 and on page 234 of the Supplement to the Revised Statutes. The changes made consist in providing that the President shall "nominate" instead of "appoint," to make the law conform to the language of the Constitution of the United States in such cases, and in substituting "Secretary of the Treasury" for "Secretary of the Interior" as the person to approve the bond.

Section 19 is identical with the present law, as found in section 3760 of the Revised Statutes of 1878.

Section 20 is new and was considered necessary by the committee in order that Congress might know from the official report of the Public Printer, in detail, what printing is done upon the requisition for the Departments and what binding is done upon requisition of Senators, Representatives, Delegates, and other officers of the Government.

Section 21 is new and is intended to properly guard the sale of property in the Government Printing Office. It meets the approval of the Public Printer and is recommended by him.

Section 22 is new. Although it has been the practice of the Public Printer to condemn machinery and material and sell the same, there has been no law directing how such property should be condemned or sold. This section is intended to define the powers and duties of the Public Printer respecting condemned machinery and to enable him to dispose of it to the best advantage of the Government. Hence he is allowed to exchange old for new machinery and pay the difference in cash when it has been demonstrated that the machinery or material would be sacrificed if sold for cash.

Section 23 is substantially the present law as found in section 3821 of the Revised Statutes of 1878.

Section 24 is substantially the present law as found on pages 499 and 600 of volume 1, second edition of the Supplement to the Revised Statutes, and in 24 Statutes at Large, page 91, act of June 30, 1886, and 25 Statutes at Large, page 352, act of August 1, 1888. The only change in the language of the present law is the addition of the words "to the extent of not exceeding."

Section 25 is new. Its object is to enable the Public Printer to hold in unstitched form Records to be bound upon requisition of Senators, Representatives, and Delegates who may require them semimonthly,

and thus avoid the expense of tearing them to pieces after they had been stitched and pressing them before they can be bound as required. It also provides for supplying the Record in bound form only to those committees whose chairmen make requisition therefor.

Section 26 is new, and gives the warrant of law to the practice in the Government Printing Office to stereotype all matter that would probably be used a second time, or that would make thirty pages.

Section 27 is identical with section 3766 of the Revised Statutes of 1878.

Section 28 is substantially the present law as found in section 3814 of the Revised Statutes of 1878.

Section 29 is the law contained in section 3816 of the Revised Statutes of 1878, with the change that instead of "two-thirds," the amount of money the Secretary of the Treasury may advance to the Public Printer is increased to "four-fifths" of the penalty of his bond, or $80,000. This change is found to be necessary in order to relieve the Public Printer from the embarrassment caused by the insufficiency of money advanced to him under the old law. The reason assigned by the Public Printer is that "there are times when the payroll and cost of material necessary to be purchased are larger than the amount to which the Public Printer is limited. The increase would serve to relieve the office, so that it would not be hampered in certain emergencies."

Section 30 is identical with section 3818 of the Revised Statutes of 1878, with the exception that "waste gold leaf" and "leather and book-cloth scraps" are added to "extra copies of documents," "paper shavings," and "imperfections." This was considered by the committee a proper addition, for the reason that this class of waste property belongs with that already provided for in the section referred to.

Section 31 is indentical with section 3817 of the Revised Statutes of 1878.

Section 32 is new. At the present time there are five branch offices, namely, one in the Treasury Department, one in the Interior Department, one in the War Department, one in the Navy Department, and one in the State Department, under the control of the Public Printer. These are branch offices of the Government Printing Office. Besides these there are printing establishments in the Post-Office and Agricultural Departments, one in the Census Office, one in the Weather Bureau, and one in the Record and Pension Division of the War Department, which are not under the control of the Public Printer and have been in operation a considerable length of time, some of them, without doubt, in violation of the law, which reads, "That all printing and binding and blank books for the Senate and House of Representatives and Executive and Judicial Departments shall be done by the Government Printing Office, except in cases otherwise provided by law." It was deemed best by the committee, after a full investigation into the matter and visiting all of the Departments where printing was done, that it would be in the interest of the public service and on the line of economy to place all of these offices under the Public Printer, excepting those heretofore provided for by law for special purposes, and to denominate them "branch office of the Government Printing Office," and to provide that all offices hereafter established by law shall be placed under his direction and be under his control. This seems to meet with the approval of the heads of the Executive Departments and of the Public Printer. The heads of the Departments have stated in writing that printing offices in the Departments are necessary, and their existence is in the interest of the public service and on the line of economy.

Section 33 is identical with section 3783 of the Revised Statutes of 1878.

Section 34 is substantially the law as contained in section 3784 of the Revised Statutes of 1878. The committee changed the section so as to fix the maximum term of imprisonment and expunged the minimum, and fixed the fine at "not exceeding."

Section 35 is substantially the same as the present law, with the addition of "chief clerk" and "nor any of their assistants," and fixing the fine at "not exceeding."

Section 36 is substantially the present law as found in the Statutes at Large, volume 22, page 637.

Section 37 is new, so far as its application to the chief clerk of the Government Printing Office is concerned. It is substantially the law respecting other Departments, as contained in sections 177, 178, and 179 of the Revised Statutes of 1878.

Section 38, so far as it relates to extracts from the Congressional Record, is the present law, as found in the Supplement, volume 1, second edition, page 71. The remainder of the section is substantially found in the Statutes at Large, volume 24, page 341, or the Supplement to the Revised Statutes, volume 1, second edition, page 515.

Section 39 is substantially the present law, approved December 21, 1882, to be found in the Statutes at Large, volume 22, page 397.

So much of section 40 as relates to pay of printers and bookbinders is identical with the present law, act of February 16, 1877, to be found in the Statutes at Large, volume 19, page 231, and Supplement to the Revised Statutes, volume 1, second edition, page 129. That part relating to night work is identical with the present law as found in the act of March 3, 1891, Statutes at Large, volume 26, page 1084, and Supplement to the revised Statutes, volume 1, second edition, page 934.

Section 41 is substantially the present law as found in the Supplement to the Revised Statutes, volume 1, second edition, page 422.

Section 42 is the present law as found in section 3782 of the Revised Statutes of 1878.

Section 43 is substantially the present law as found in the Supplement to the Revised Statutes, volume 1, second edition, page 311, except that it limits the amount to be printed for any one person and provides that work for private parties shall not interfere with the printing for the Government.

Section 44 is substantially the present law as found in section 198 of the Revised Statutes of 1878. The only change is in the date from the last day in September to the 1st day of July.

Section 45, so far as it relates to the foreman of printing and foreman of binding, is identical with the present law as found in section 376 of the Revised Statutes of 1878. That relating to the chief clerk is new, although there has been practically such a clerk in the Government Printing Office for many years at the salary stated in this section. It is deemed well to authorize such official, who becomes the acting Public Printer in certain emergencies.

Section 46 is substantially the present law as found in the Supplement to the Revised Statutes, volume 1, second edition, page 114.

Section 47 is substantially the present law as found in the Supplement to the Revised Statutes, volume 1, second edition, page 303. The only change made is the addition of the words "Memorial Day," to make it conform to the present law as found in the supplement as above,

page 600. Inauguration Day is a holiday by virtue of act of June 18, 1888, Supplement Revised Statutes, volume 1, second edition, page 592.

Section 48 is identical with the present law as found in section 3764 of the Revised Statutes of 1878, with the addition of the following words: "but the provisions of the existing eight-hour law shall apply."

Section 49 is substantially the present law as found in section 3762 of the Revised Statutes of 1878. The only difference consists in reducing the aggregate amount paid for these clerks $400 by reclassification, complying with late appropriation bills.

Section 50 is identical with the present law as found in section 3763 of the Revised Statutes of 1878.

Section 51 is new. It was recommended by the Public Printer and was approved by the entire committee on the theory that it is good American doctrine to give the American boy a chance to learn a trade. It was the practice for years in the Government Printing Office to employ apprentices, but it was stopped by a former Public Printer on his construction of the law which required him to employ only skilled workmen and the further reason that he thought there was not sufficient room in the Government Printing Office to employ apprentices.

Section 52 is identical with the present law as found in section 3790 of the Revised Statutes of 1878.

Section 53 is new. It was formerly the practice to sell the stereotype plates as provided in this section. It is believed by the committee that this practice will aid in the circulation of knowledge without any detriment to the public service or cost to the Government.

Section 54 is new and is intended to emphasize the duty of the Public Printer in examining carefully orders for printing of the Senate and House in order that he may be able to prevent duplication.

Section 55 treats of the "usual number;" section 3792 of the Revised Statutes of 1878 says: "Fifteen hundred and fifty copies of any document ordered by Congress shall be printed, and that number shall be known as the usual number." That is to say, under the operation of that statute, when a document was ordered printed, 1,550 copies were printed, or when a special number was ordered printed the usual number, or 1,550 copies, were printed in addition thereto. That number was changed by section 3799 of the Revised Statutes, which provides that 50 additional copies be printed for the purpose of exchange in foreign countries, and 7 additional copies by the act of February 8, 1881, Statutes at Large, volume 21, page 322, for supplying soldiers' homes. This increased the usual number from 1,550 to 1,607. Upon the recommendation of the then Public Printer, Mr. Clapp, in 1874, the usual number was raised to 1,900. This was done to meet the demands of increased representation in the House and Senate. The usual number thus increased from 1,607 to 1,900 upon the recommendation of the Public Printer, by order of the Joint Committee on Printing, was subsequently recognized by Congress as the usual number. Joint resolution, February 14, 1881, page 617 of the Supplement to the Revised Statutes, instructed the Public Printer to print from time to time the usual number of 1,900 copies of any matter furnished him by the United States Commissioner of Fish and Fisheries, etc. Nineteen hundred copies of documents and reports was recognized as the usual number from the Forty-third to the Forty-ninth Congresses, inclusive. In the Fiftieth Congress the Public Printer ordered the number reduced to 1,734 copies of documents and reports, claiming that to be the number warranted by law.

The committee, after a careful investigation into the actual needs of Congress, fixed the number, as in this section, at 1,682 copies and revised the distribution. It is believed that this number will be quite sufficient for years to come and that the distribution meets every requirement of Congress.

The radical changes made by this section consist in doing away with the reserve number, requiring the Public Printer to print the entire usual number at one time, and to bind the 1,082 copies of that number as soon as practicable for distribution. Five hundred copies of the usual number are to be held by the Public Printer in unstitched form, subject to be bound upon the order of the Vice-President, Senators, Representatives, Delegates, Secretary of the Senate, and Clerk of the House in such binding as they may select, except full morocco or calf. This will enable those having a right under this section to order public documents bound to bind all or to select such documents as they may desire to be bound, and will do away with the present practice of binding one copy of all public documents in sheep at the end of each Congress and forcing them upon Senators, Representatives, Delegates, and others whether they desire them or not. While the operation of this section will relieve the Senators, Representatives, and Delegates from the deluge of full sheep-bound documents not wanted, it will also save several thousand dollars each Congress to the Government, by enabling the Public Printer to bind documents upon special orders of Senators, Representatives, and Delegates without having first to tear to pieces documents that have already been bound. It will also save to the Government a great many dollars by stopping the binding of thousands of documents in full sheep that are not wanted.

Section 56 authorizes the printing of concurrent and simple resolutions in the same number as bills and joint resolutions and that all shall be printed in bill form. The Revised Statutes of 1878, section 3791, directs that there shall be printed 750 copies of every bill or joint resolution. This number was increased upon the recommendation of the Public Printer by order of the Joint Committee on Printing to 925 copies. The law proposed in this section under consideration reduces the number of public bills to 625, making a reduction of 300. This number is based upon the actual and ascertained needs of the public service. The distribution was agreed upon only after a most careful inquiry into the actual number required. The reduction in the number of private bills is large and this change in the law will make a great saving in expense.

Section 57 provides for the printing of laws. It leaves the number of public laws in slip form the same as is now supplied, but reduces the number of private laws 1,350 copies. The distribution has been carefully investigated and is believed to be as it should be.

Section 58 reduces the number of copies of the Journals of the Senate 45 copies and the House Journals 64 copies below the late law of 1888, and changes somewhat the distribution. It cuts off nearly all the unbound Journals or signatures. There were 30 of the Senate and 50 of the House Journals in signature form supplied under the law of October 19, 1888. The committee finding upon investigation that these were not needed, discontinued them, except a few for the use of the Secretary of the Senate and Clerk of the House. With these exceptions this section is substantially the same as the present law, as found in the Supplement to the Revised Statutes of 1878, volume 1, second edition, page 634. This law, passed in October, 1888, made a very radical change in the existing law in the interest of economy. It cut off the printing

of 1,550 copies of the bound Journals of the two Houses which had been printed for many years, owing to a mistake in the revision of the United States Statutes of 1878. It reduced, in addition to the 1,550 copies of the Senate Journals, 66 copies, and of the House Journals 257 copies. By this section there is a further reduction made of 45 Senate Journals and 64 House Journals.

Section 59 is new. The purpose of it is to preserve for reference copies of reports and papers printed for the use of committees, which, being given no document number and for temporary use, soon become lost and inaccessible, although they may contain much valuable information that will be sought for both by legislators and the public. To preserve such reports and papers it was deemed advisable by the committee to make it the duty of the Public Printer to deliver such reports and papers as directed herein. It also provides for supplying publications of the Executive Departments to designated depositories.

Section 60, so far as it affects the printing of extra copies, simply gives expression to what is now the practice, and presents in somewhat different form the law as now contained in sections 3793 and 3795 of the Revised Statutes of 1878.

Section 61 is new. It was found upon investigation by the committee that the existence of two document rooms in the House of Representatives led to confusion, and instead of facilitating, really retarded the distribution of documents. At the present time the Clerk's document room is receiving 25 public bills and 100 documents. It also receives the reserved documents of the "usual number." For these purposes a file room and document room are maintained at considerable extra expense and without any commensurate benefits. The Clerk of the House of the Fiftieth Congress decided that there was no law under which he might be expected to furnish to the Departments or the several branches of the Government bills when called for. The Clerk is charged under the statutes with the distribution of the bound copies of the usual number of documents to the members and to the Departments, while the unbound documents, bills, and resolutions are distributed by the Doorkeeper in the House document room, which results in more or less conflict between the Clerk and the Doorkeeper. The Clerk receives the orders for unbound documents and is compelled to send his orders to an officer under the Doorkeeper. It seems to be the opinion of those who have had large experience in handling documents for the House of Representatives that there is no justification for the existence of two document rooms in the House. It was therefore deemed wise and on the line of economy by the committee to dispense with one of said document rooms. The House document room, as now constituted, is under the control of the Doorkeeper of the House, as is also the folding room. The Clerk's document room is under the direction of the Clerk. The consolidation of the two document rooms in the House would place all the work under one head and to be done in one room. This would undoubtedly enable the work to be done more promptly and more economically. This is the arrangement in the Senate, and it works satisfactorily in every particular.

For reasons set out elsewhere in this report it is provided that the two document rooms in the House shall be maintained until the closing of the Fifty-third Congress.

Sections 62, 63, 64, 65, 66, 67, 68, 69, and 70 are new. They provide for a clerk to the Joint Committee on Printing, define his powers and duties, and provide for a force sufficient to do the work under him. These sections do away with the superintendent of documents in the

Interior Department and of the force there employed under him. The salary proposed for the new officer is the same as that which is now paid the superintendent of documents in the Interior Department, and is believed to be fair compensation for the intelligent work required. It is probable that the entire business of the new office could be transacted with the force now employed in the Interior Department under the superintendent of documents. It is assumed that the work of distributing the documents being consolidated under this official every Department would be in a large degree relieved of the care of documents, and hence those employés now engaged in this work in the Department would either be dropped from the roll or assigned to other duty. It is probably safe to estimate that a sufficient amount will be saved by these changes to more than cover the entire expense of this clerk's office, exclusive of the folding and mailing departments. This estimate is, of course, based upon the supposition that the document rooms kept up in the various Departments will be in a large measure done away with. In addition there will be the saving by the prevention of duplication, which will amount to several thousand dollars each year, and the receipts from documents sold will be largely increased under the proposed arrangement. About $3,500 were turned into the Treasury last year from the sales of documents by the superintendent of documents in the Interior Department. That officer concludes that in a very short time under this law the sales of public documents would reach $10,000 per annum, which in itself would go far toward paying the expenses of the office. The preparation of a consolidated index as proposed in the bill would result in a saving of at least $2,000 per annum, as the necessity of the preparation of any other index by the officers of the Senate or House will be obviated. On the whole it is reasonable to conclude that the new arrangement would be more economical than the present method, and at the same time would be vastly superior in every particular.

Section 65 provides for indexing documents. The indexing of Senate documents and reports of Senate committees under the present system is done by clerks in the office of the Secretary of the Senate. House documents and reports of House committees are indexed by clerks in the office of the Clerk of the House. The index prepared by these clerks is more of a catalogue of titles than an index, and is inserted in the front part of each volume of what is now known as the reserve number. It is not inserted in what is called the up-number for the reason that the clerks depend upon the first print or up-number for material out of which to make the index. This index, or catalogue of titles, more properly speaking, is made for each series of Senate executive and miscellaneous documents and Senate reports of committees, and House executive and miscellaneous documents and House reports of committees, respectively, and indicates the volume in which any document may be found in the bound series of any particular Congress. The section under consideration proposes a general consolidated index of all publications by the Government, to be printed and bound in one volume annually. It also proposes a consolidated index of executive and miscellaneous documents and reports of committees of both Houses of Congress to be bound in one volume and distributed with the bound sets.

The annual report and accompanying documents of heads of Departments contain, as a rule, a very satisfactory index. These individual indexes are printed with the reports as they appear in the up-number and also in the bound sets. Under the proposed law the individual

indexes will be continued the same as heretofore. These, in connection with the consolidated index to be prepared by the superintendent of documents, will furnish a key to all Government publications, and will, it is believed by the committee, meet the demands of those who know the value of a complete index.

Section 70 is new, and is intended to relieve the Departments, bureaus, and offices of the Government of those documents already accumulated, or that may accumulate, and to place them in the hands of the public by distribution or sale. In the Capitol are stored many thousand volumes that have been placed in charge of the officers of Congress by committees and members which should be thus disposed of. Where they now are they are occupying valuable room and are being destroyed.

Section 71 is new. There has been no catalogue since the completion of the Descriptive Catalogue of Government Publications in 1881. It is difficult to ascertain what public documents have been published since that date, and if it is ascertained that a certain document has been published it is very difficult to learn where it can be found among the mass of documents issued each year from the Government Printing Office. This section is intended to furnish this valuable information respecting all documents published in the future.

Section 72 is new, and its purpose is to supply libraries thoughout the country, other than the designated depositories, with a proportion to the extent named of the most valuable of the publications of the Government.

Section 73 is new, and is believed important to prevent waste.

Section 74 relates to folding rooms of Senate and House. There is but one folding room of the Senate and one folding room of the House of Representatives at the present time. These folding rooms are in charge of superintendents, who receive all extra copies of documents printed by order of Congress from the Government Printing Office and fold them for distribution and send them wherever ordered by those having authority. The books when received are apportioned equally among those entitled to receive them, and each Senator, Representative, and Delegate is given credit for the number apportioned to him, and they are charged with the books as they are sent out upon their order. It is a debit and credit system, and consists simply in indicating the number of books received and the number of books sent out. It is proposed by this bill, in the sections pertaining to the new officer, to inaugurate such a system of bookkeeping in the folding rooms of the two Houses as will show the number of books received and distributed, the person ordering the distribution, and the persons to whom they are sent, and requires the keeping of books by such a method that will prevent duplication and require a report that will show in detail books received, how and to whom distributed, and will prevent duplication.

Section 75 is new. There is no law that authorizes the superintendents of the folding rooms or anyone else to dispose of public documents belonging to members except upon the order of Senators, Representatives, and Delegates. In consequence of this, large numbers of such documents have accumulated in the folding rooms of the two Houses and have remained there until they were rotten from dampness and age. In some instances Senators and Representatives have distributed but few books during their terms of office, and after the expiration of their terms of service have given orders for the distribution of their books, while others have left them without any instruction. Whether such

documents are to be considered as the personal property of Senators, Representatives, and Delegates, or whether they are believed to be held in trust for their constituents, matters little so far as the evil is concerned that this section is intended to correct. There evidently should be some provision of law that will compel the distribution of publications that are printed at the public expense within a reasonable time after their publication.

Section 76 is new, although it in some respects embodies in statutory form present provisions of law.

Agricultural Report. This section authorizes the printing of 500,000, which is 100,000 more than has been printed for many years by joint resolution. The distribution of the 500,000 is proportionately the same as heretofore made.

Report of the Bureau of Animal Industry. This report for many years has been printed by authority of joint resolution, and the number printed has usually been 50,000 copies. This section leaves the number at 50,000 and the distribution proportionately the same as heretofore.

The Ephemeris or Nautical Almanac, and papers supplementary thereto. These publications have been printed by authority of joint resolutions, and the number usually ordered and the distribution of the same have been about as stated in this section. The provision respecting the 500 printed for Congress is made upon the suggestion of Prof. Simon Newcomb, Superintendent of the Nautical Almanac.

Astronomical and Meteorological Observations. This section provides for the printing and distribution of the same number of copies as is authorized by concurrent resolution of January 8, 1889.

Report of the Superintendent of the Coast and Geodetic Survey. This section reduces the number of copies of the report 2,200 by taking that number from the number printed heretofore by concurrent resolution for use of the Senate and House, leaving the same number of copies, 2,000, for distribution by the Coast and Geodetic Survey. After inquiry by the committee concerning the demand by the public for this report the committee came to the conclusion that the Senate and House received more than they had use for, and that it would not be prudent to cut down the number heretofore allowed the Survey.

Commercial Relations and Foreign Relations. Under section 3798 of the Revised Statutes, 1878, 5,000 copies of Commercial Relations and 6,000 copies of Foreign Relations have been printed. The change to a much less number is believed to be desirable.

Report of the Bureau of Ethnology. This section reduces the number of copies 7,500 from what has heretofore been published by authority of joint resolution, the reduction coming out of the number of copies for Congress, leaving the number of copies for the Bureau of Ethnology the same as heretofore, namely, 5,000 copies.

Report of the Commissioner of Fish and Fisheries. This section reduces the number of copies 3,000, leaving the same number of copies heretofore printed by authority of concurrent resolution for distribution by the Fish Commission. This report has been printed to the number of 11,000, besides the usual number by annual concurrent resolution.

Bulletins of the Fish Commission. This section provides for the printing of 5,000 copies ; 1,000 for the Senate, 2,000 for the House, and 2,000 for the Fish Commission.

Report of the Health Officer of the District of Columbia. This section provides for 1,000 less copies than printed heretofore by concurrent resolutions, the last resolution being March 25, 1890. A slight change is made in the distribution to accommodate the increased representa-

tion in the House, and about 1,000 less are given to the health officer for distribution.

Report of the Civil Service Commission. This section reduces the number from 31,000 to 23,000, making a reduction of 8,000 copies. Heretofore the report has been printed by concurrent resolution, the last one being September 25, 1890. After a careful investigation the committee were of the unanimous opinion that 20,000 copies would be sufficient to supply the legitimate needs of the Civil Service Commission and that 3,000 would be sufficient for Congress.

Report of the Commissioner of Education. This section reduces the number of copies from 44,000 to 35,000. Forty-four thousand copies of the report of 1889 were printed by concurrent resolution of September 16, 1890. We take from the apportionment to the Senate and House, leaving the number of copies for distribution by the Commissioner of Education the same, 20,000 copies.

Report of the Geological Survey. This section reduces the number of copies from 18,500 to 12,000, a reduction of 6,500 copies. Heretofore the report has been printed by joint or concurrent resolution, the last being of July 28, 1888. The reduction was made by taking proportionately from the apportionment to the Senate, House, and Geological Survey.

Report of the Commissioner of Labor. This section reduces the number authorized to be printed by joint resolution of March 2, 1891, from 35,000 to 20,000 copies, leaving the number to be distributed by the Commissioner of Labor the same as heretofore. The committee recommend an amendment which will provide for the number of this report authorized by the resolution of March 2, 1891, to wit: Thirty-five thousand, of which eight thousand shall be for the Senate, sixteen thousand for the House, and eleven thousand for distribution by the Commissioner of Labor.

Report of the Interstate Commerce Commission. This section reduces the number of copies printed for Congress and for the Department of the Interior from 6,000 up to 21,000 of each annual report down to 5,000 copies, which the committee deems a sufficient number to supply the public demand and serve the public interest.

The Revised Statutes, Supplement to the Revised Statutes, Statutes at Large, and Session Laws are to be prepared, printed, and sold, substantially as under the present law respecting them as found in the Supplement to the Revised Statutes, volume 1, second edition, pages 20, 21, 22, 57, 63, 77, 133, 134, 153, 204, 205, 261, 311, 312, 411, 712, and 713. The section provides for the printing of all concurrent resolutions, conventions, treaties, proclamations, and agreements, which the committee, after mature deliberation, concluded should be printed with the laws. The committee reduce the number of Session Laws to be distributed by Congress from 13,000 to 7,000, believing this sufficient in view of the fact that the usual number is to be printed under this bill.

Message of the President without accompanying documents. This section is new and proposes to authorize by statute the printing of the President's message promptly in sufficient number to supply Congress and the public without waiting for the passage of a simple or concurrent resolution. The number printed for either House has varied from 15,000 to 25,000.

Of the President's Message and Accompanying Documents. Three thousand copies have heretofore been printed under authorization of section 3798 of the Revised Statutes of 1878, 1,000 of which were for

the use of the Senate and 2,000 for the use of the House. The provision that the reports of the Chief of Engineers, the Commissioner of Patents, the Comptroller of the Currency, the Commissioner of Internal Revenue, the Chief Signal Officer of the War Department, and the Chief of Ordnance shall be printed only in the usual number was deemed wise because of the small demand by the public for these reports. It appeared upon investigation that these reports were called for infrequently, and that Senators and Representatives had failed to send them out, presumably because there was no demand for them. The usual number would be quite sufficient to meet the public demand.

This provision was suggested by the Secretary of the Treasury in a letter to the committee that certain documents might be typewritten and bound for reference without being printed. This leaves it with the Postmaster-General and the Secretary of the Treasury to determine whether these reports shall be printed or not. Their printing entails an enormous expense clearly unnecessary.

Report of the National Academy of Sciences. The last report was printed by concurrent resolution of January 5, 1891, which authorized 3,500 copies to be printed; 1,000 copies for the Senate, 2,000 for the House, and 500 copies for the Academy of Sciences. Prior to that time, for several years, 5,000 copies had been printed. This section reduces the number to 1,500, leaving the number of copies for the use of the Academy of Sciences the same, but reducing the apportionment for the Senate and House.

Memoirs of the National Academy of Sciences. The number of copies of this document of 1887 ordered printed by concurrent resolution of July 28, 1888, was 4,500 copies. The bill proposes a reduction of 2,000 copies, cutting down the number to be destributed by the Senate, House, and Academy proportionately.

Heretofore the Army and Navy Register has been printed on requisition by the War and Navy Departments and paid for out of their printing fund. The bill proposes to print 500 of each for the Senate and 1,000 of each for the House for their use, so that Senators and Representatives may be able to supply demands upon them for these documents without depending upon the Departments.

Report of the Smithsonian Institution. This report has heretofore been printed by concurrent resolution, that of 1890 being authorized by concurrent resolution of March 3, 1891, which authorized the printing of 19,000 copies. The bill reduced this number to 10,000, taking most of the reduction out of the apportionment to the Senate and House. The committee is of the opinion that this number is amply sufficient.

Reports of consular officers. Heretofore reports of consular officers have been printed upon requisition of the Department of State and paid for out of the printing fund of that Department. The bill proposes to print 500 for the use of the Senate and 1,000 copies for the use of the House, in order that Senators and Representatives may have these valuable documents without depending upon the Department of State for them.

Statistical Abstract. Sixteen thousand copies of this report for 1889 were printed by concurremt resolution of September 16, 1890. The bill reduces the number of copies for the Senate and House and increases the number of copies for use of the Bureau of Statistics. The reduction made is 4,000 copies.

Tests of Iron and Steel. The bill authorizes the printing of the same number of this document as has been printed heretofore by requisition

of the War Department, namely, 500 copies. Besides these the usual number will be printed, but no extra copies for distribution, as heretofore.

Finance Report of the Secretary of the Treasury, etc. The bill authorizes the printing of the same number of copies of the Finance Report of the Secretary and other valuable reports named as has been heretofore printed under authorization of section 3798 of the Revised Statutes, but reduces the number of the Report on Commerce and Navigation from 2,000 to 1,000 copies for the Senate and from 6,150 to 2,000 for the House, and makes the same reduction in the number of the Report on Internal Commerce. The Report of the Director of the Mint on the Production of Precious Metals, heretofore printed by concurrent resolution and under authority of section 3792, Revised Statutes of 1878, is reduced from 2,000 to 1,000 copies for the Senate and from 4,000 to 2,000 copies for the House. It is proposed to cut off the printing of 3,000 of the Report on Mineral Resources by the Geological Survey and distribute 3,000 through Congress.

Report of the Government Directors of the Union Pacific Railway. This report, when printed for use of the Senate and House, was by concurrent resolution of July 17, 1886, which authorized the printing of 1,000 copies for the Senate and 2,000 copies for the House. The bill proposes a reduction of 1,500, which it is deemed by the committee will be sufficient.

Eulogies on Deceased Members of Congress. Eulogies heretofore have been printed by joint resolution, the printing and binding to be paid for out of the general printing fund, but the frontispiece or engraving was provided for by special appropriation, $500. The number of copies heretofore printed has increased from 4,500 copies in 1876 to 25,000 copies. The number of copies printed for a considerable length of time was 12,500. After a full consideration of the subject, the committee arrived at the conclusion that 8,000 was amply sufficient if properly distributed; and this section attempts to make such distribution of the 8,000 copies as will serve as good if not a better purpose than a larger number improperly distributed. The Chief of the Bureau of Engraving and Printing, in a letter addressed to the committee, stated that it was unnecessary for Congress to make a specific appropriation for the engraving, for the reason that the work could be done and paid for out of the appropriation for the Bureau of Engraving and Printing. The practice has been to bind in the usual number or reserve documents eulogies of Senators and Representatives in single volumes. This section is intended to bind all of the eulogies of the Senate and House, respectively, in one volume, and thus save great expense.

Senate and House Manuals. This is new, and is intended to enable each House to print its own Manual in such editions as it may deem proper.

Congressional Directory. This section embodies the present law as contained in section 3801 of the Revised Statutes of 1878, with additions. It provides that the first edition shall be ready for distribution to Senators, Representatives, and Delegates on the first day of the session, and the remainder of the edition within one week thereafter; and provides that the distribution shall be under the control of the Joint Committee on Printing. The section simply expresses what has been the practice in the preparation of the printing and the distribution of the Directory for some time past.

The Abridgment. This section is substantially the present law as contained in section 75 of the Revised Statutes of 1878. The addition

made to the present law in this section consists in the direction to the Public Printer to furnish copies of the reports to be abridged as soon as printed, and fixing a time when the copy of the Abridgment shall be delivered to the Public Printer, and making it peremptory on the Public Printer to print the Abridgment as soon as the copy is furnished him. The number of copies is also reduced by the bill from 35,000 to 12,000. It was ascertained by the committee that while the Abridgment was of sufficient importance to be continued, the number of copies hitherto printed was too large, hence this reduction.

The Congressional Record. The present law authorizing the printing and distributing of the Congressional Record is contained in section 78 of the Revised Statutes of 1878, and in the Supplement to the Revised Statutes, volume 1, second edition, pages 328, 387, 422, 423, 424, and 516. These statutes provide for the printing of the Record, its distribution to States and Territories, to legations abroad, to the justices of the Supreme Court, the clerk, and marshal, the preparation of the semimonthly index, and the distribution and sale of the Record by the Public Printer. This section follows, in the main, the present law. It increases the number of copies to meet the requirements of increased representation in the Senate and House of Representatives and the increase of State libraries. The bill makes a new provision, to the effect that the Record shall be furnished only to foreign legations in Washington whose governments extend a like courtesy to our legations abroad, and provides for the distribution of Records to depositories in the States by the superintendent of documents.

This section embodies substantially sections 510, 511, and 3800 of the Revised Statutes of 1878, and acts of Congress to be found in the Supplement of the Revised Statutes, volume 1, second edition, pages 150, 288, 376, and 575. The changes made consist in charging the appointment clerk of the Interior Department with the duty of preparing, editing, and indexing the Official Register, which work is now done by the superintendent of documents of that Department. This change is made for the reason that if this bill becomes a law the superintendent of documents in the Interior Department will be done away with, that officer and his force being transferred as provided for by the bill. The number of copies authorized to be printed by this section is 1,234 less than are now authorized to be printed by law. The distribution has been arranged in such a manner as to place the Register in the hands of those needing it, and provision is made for the supply of libraries throughout the country for use of the public.

The provisions of the bill pertaining to the Patent Office are substantially those provided for by existing law. By reference to the communication from the Commissioner of Patents, printed with the testimony, it will be seen that there has been much question in that office whether the printing has been by virtue of law or because of custom. The object of the section is to legalize all proper printing for that Bureau and to furnish to Congress for distribution simply that that will probably be needed by the general public.

The first part of section 77 is substantially the present law as contained in Supplement to Statutes at Large, volume 1, second edition, page 382. The addition is advisable.

Section 78 is new. It has been customary to send copies of all public documents to each of the foreign legations in Washington, about forty in number, each receiving every session from thirty to thirty-five volumes of public documents bound in full sheep. Upon investigation it

was found that in most cases these were not wanted. The legations in keeping up with the current work of Congress have obtained public documents required for this purpose through the Department of State. Our legations abroad have to pay for such publications. If our Department of State gets a document in London it has to pay for it, and it would seem fair and just that foreign Governments should pay for our Government publications when they require them. This section is made upon the recommendation of a late Secretary of State, as also ex-Secretary of State Hon. Hamilton Fish, who wrote a strong letter upon the subject to Hon. H. B. Anthony in 1874, then chairman of the Committee on Printing.

Section 79 is substantially the present law as found in the Supplement to Revised Statutes, volume 1, second edition, pages 202 and 250.

Section 80 is identical with the present law as found in sections 432 and 433 of the Revised Statutes of 1878.

Section 81 is identical with the present law as found in section 3686 of the Revised Statutes of 1878.

Section 82 is identical with the present law as found in the Statutes at Large, volume 24, page 255.

Section 83 is new, and was made upon the recommendation of the Public Printer, and after full investigation by the committee. It has happened in the Government Printing Office that the printing of the text of books has been completed and the sheets stored away for months and years before the copy for the maps or illustrations was furnished. This has led in some instances to a great waste by the sheets being so damaged that they could not be used, and thus necessitating the reprinting of those damaged. It is believed that this section will remedy that evil. The section also will prevent the delay in furnishing copy to the Public Printer. Only recently the Superintendent of the Naval Observatory applied to the Public Printer to have printing done under an order passed in 1854, the copy for which had not been furnished during that long period. The Public Printer very properly refused to do the printing without a revival of the order by Congress, or that authority be given him to act upon the old order by the Joint Committee on Printing. This section will remedy that evil.

Section 84 is new. The purpose of it is that the title on the back of public documents shall be made uniform and less confusing, and to simplify their titles that they may be more easy of identification.

Section 85 is identical with the present order of the Senate.

Section 86 is substantially a part of a joint resolution passed July 29, 1886, as found in Supplement to the Revised Statutes, volume 1, second edition, page 688, and is designed to give each committee the reports that emanate from it.

Section 87 is identical with the present law, act of July 20, 1868, Statutes at Large, volume 15, page 111.

The first part of section 88 is the present law as found in the Supplement to the Revised Statutes, volume 1, second edition, page 245. The last clause is the provision passed in an appropriation bill at the second session of the Fifty-first Congress.

The first portion of section 89 is the present law as found in section 3785, Revised Statutes of 1878.

Section 90 is new, but is a proper reform.

Section 91 is new, but is right and proper.

The first paragraph of section 92 is substantially the present law as found in sections 3786, 3789, and 3802 of the Revised Statutes of 1878. The remaining paragraphs are substantially new. The second para-

graph fixes the maximum limit, based upon the number of copies heretofore printed upon requisition of the heads of Departments, and paid out of their printing fund. The third paragraph was made upon the suggestion of the head of a Department, and it seems to the committee that it comes very properly within the province of the Department chief to determine whether a report of a subordinate to him shall be printed or not; hence it is left to the heads of Departments to determine this matter, having in view the public interest.

Section 93 is new. The present practice of supplying the Executive Departments with documents, bills, and resolutions from the document and folding rooms of the two Houses has proved very unsatisfactory. The Postmaster-General, in speaking on this subject, says: "It is now the practice * * * to send to the several bureaus of this Department one copy of every bill, resolution, and other document printed by order of the Senate. The intention in sending these documents, it is presumed, is mainly to give information to the Department of pending legislation or other business affecting its interest; but I am informed that there is and always has been so much delay in furnishing them that when received they are, in a majority of cases, of but little practical value. I think it would be better if they were distributed by the Public Printer at the same time that he makes his distribution for the two Houses of Congress. This would enable the several officers of this Department to make prompt examination of them, and formulate such recommendations or action concerning them as might be found appropriate." (See page 79 of Investigation of the Public Printing.) The Secretary of the Treasury, speaking on this subject, at page 22 of the Investigation of the Public Printing, says: "Copies of all reports, bills, etc., ordered printed are sent to a number of the bureaus of this Department while other bureaus are overlooked. Their reception by this Department serves no good purpose, as they are received, as a rule, long after the order was given to print," etc.

This seems to be the opinion of heads of Departments respecting the distribution of documents, bills, and resolutions to the Departments, and acting upon these suggestions the committee formulated this section, which, it is believed, will fully regulate the matter and enable the Departments to get such documents, bills, and resolutions promptly as are needed in the transaction of Departmental business.

Section 94 is new. All annual reports, with the exception of the report of the Superintendent of the Geological Survey, are now printed uniform with the reports of heads of Departments. It is desirable for appearance as well as convenience that all reports should be thus printed.

Section 95 is new and aims at systematizing the distribution of documents in the Departments, and to place the public documents in the hands of those who are entitled to receive them and prevent duplication.

Section 96 combines in its provision substantially the present law as contained in sections 3789 and 3802 of the Revised Statutes of 1878, and act of June 20, 1878, contained in the Supplement to the Revised Statutes, p. 381.

Section 98 is substantially the present law as contained in sections 3785 and 3789 of the Revised Statutes of 1878, Statutes at Large, volume 23, p. 226, and in the supplement to the Revised Statutes, pp. 98 and 381. These several sections have been thrown together in this one section for the purpose of compactness and convenience.

That part of section 99 which authorizes the Postmaster-General to contract for envelopes for other Departments than his own is new, and

is made upon his suggestion, which is as follows: "Our contracts for official envelopes provide that the envelopes shall be supplied with such printing as the Department may prescribe, and the printing is done at the time the envelopes are manufactured, and forms one step in their manufacture. It therefore costs but a trifle. The official envelopes supplied to the other Executive Departments are bought in blank and are afterwards printed either at the main Government Printing Office or at one of the branch offices. This involves considerable expense for printing, a large portion of which could be saved if authority were given to each of the Departments to pursue a course with reference to its envelopes similar to that now followed by the Post-Office Department with regard to envelopes for the postal service. This arrangement would result, first, in a large saving by reason of the lower price obtained by the greater quantity supplied; second, the further saving already pointed out, of the cost of extra printing upon such envelopes as are not now printed at the time of manufacture, and third, a minimizing of the risk of counterfeiting the penalty clause, through confining the manufacture to one establishment and one oversight."

Section 100 is new and is formulated upon the suggestion of the Attorney-General in his answer to the circular letter found on page 96 of the Investigation of the Public Printing. He says: "It would be in the line of economy and in the interest of the public service to have all blanks, letter heads, and envelopes for the use of the judges and other officials of the United States courts throughout the country, other than such as are by law required to be paid for by any of these officers out of the emoluments of their offices, printed under the direction of the Department of Justice and distributed by it, for the reason that uniformity would be secured in the size, style, and expense of returns and reports; and no excuse would exist for failure on the part of any officer to render his reports and returns promptly. The handling and consideration of accounts and returns by the officials of the Treasury Department would be greatly facilitated, and there would probably be a saving of 25 to 30 per cent to the Government.

Section 101 is substantially new. Section 1332 of the revised Statutes of 1878 provides that the Secretary of the Senate shall supply the Military Academy with copies of all documents published by the Senate. The provisions of the present law are simply enlarged so as to embrace all public documents, and places the eight Executive Departments and the Naval Academy on an equal footing with the Military Academy respecting public documents.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 8.

PNEUMATIC DYNAMITE GUN COMPANY OF NEW YORK.

SEPTEMBER 12, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TALBOTT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 222.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 222) to remit the time penalties on the dynamite gun cruiser *Vesuvius*, finds a similar bill passed the Senate during the last Congress and was reported favorably from this committee. The committee adopts its report made last session on the Senate bill, and recommends the passage of the present bill.

[House Report No. 1680, Fifty-second Congress, first session.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1558) to remit the time penalties exacted by the Secretary of the Navy from the Pneumatic Dynamite Gun Company of New York in the construction of the cruiser *Vesuvius*, have considered the same, and find that the said company entered into the contract to build said cruiser February 11, 1887, and the total amount of time penalties withheld is $39,700.

The bill having been referred to the Secretary of the Navy for his views, was returned by that officer with the statement that the vessel has been completed and accepted by the Department, and that the Government suffered no damage by reason of the delay.

From the evidence before your committee it is found that the time ran against the contractors while they were engaged in building a vessel of much greater speed and dimensions and guns of larger caliber than the contract called for and without additional expense to the Government.

The alterations in the cruiser, which made it in every way more valuable to the Government, were made with the approval of the Department, and as the Government not only lost nothing by the delay, but on the contrary got a much better vessel in every respect than it contracted for without additional cost, it appears to your committee to be a case that most strongly appeals to the just and equitable consideration of Congress.

Your committee therefore report back the bill and recommend its passage.

The contractors' statement of the case is appended.

PNEUMATIC DYNAMITE GUN COMPANY,
New York, January 5, 1891.

DEAR SIR: We beg to give you a few facts and notes in connection with our contract for building the *Vesuvius* which may be of use to you in your argument for the remission of penalties.

The contract to build and equip the vessel now known as the dynamite gun cruiser *Vesuvius* was entered into by us under date of February 11, 1887, in accordance with an "act to increase the naval establishment," approved August 3, 1886.

The completion of the vessel was called for under the contract in twelve months, attaching a penalty for nonperformance of $25 per day (excepting Sundays) for the first six months' delay, $50 per day for the next three months, $100 per day for the next three months, and $200 per day thereafter.

In our communications to the Secretary of the Navy under date of October 18 and November 11, 1887, we asked permission to increase the dimensions of the vessel and to substitute 15-inch guns for those of 10½-inch caliber called for by the contract, which permission was granted, and the alterations were made at our cost; they added largely to the efficiency of the vessel, but took time to complete.

Subsequently the Department made a change in the specifications of the tests of steel, and in answer to our letter of April 26, 1888, asking for an extension of time for the completion of the vessel, the Department, in consideration of the loss of time occasioned by such change, fixed the date at which the penalty would begin to accrue as May 20, 1888, instead of February 11, 1888, as it was by the contract.

The following are some of the considerations upon which we base our request for remission of the penalty and ask to be paid the full contract price for said vessel:

(1) That it was our first attempt to build pneumatic guns of so large a caliber, and we had no experience to guide us as to the nature of the obstacles which might and did arise in their manufacture.

(2) That we have delivered to the Government a unique vessel of unparalleled power, marking an era in the American Navy equaled only by the advent of the *Monitor*.

(3) That the delays which occurred were occasioned by a change of plans, by which the Government receives a vessel which has cost considerably more than the contract price.

(4) Her speed is so largely in excess of what was called for by the contract that if we had been paid as other contractors have, the bonus would nearly equal the contract price for the vessel.

The horse power developed is largely in excess, and would at a premium allowed to other contractors for excess of horse power over contract more than offset any penalty incurred. The Secretary of the Navy in his report for the year 1890 says the horse power is 594 in excess of contract requirements.

(5) No compensation being allowed in the contract for the completion of the vessel in advance of time as an offset to the penalty incurred for delay, it would seem that an early delivery was not the essential point.

(6) That the intent of the clause in the contract relating to the penalty was to protect the Government from loss or damage, and no complaint has been made that any loss or damage has been sustained.

(7) The difficulty with which new inventions are introduced was fully experienced by us at the time of making the contract. The Department, which is of necessity conservative, looked upon our claim as impracticable, and it may have been, that taking this view, the terms of the contract were made more exacting than would have been the case for an ordinary armament.

This conservatism, it will be remembered, well-nigh deprived the country, at a critical period of its history, of the services of the *Monitor*, which, in the memorable engagement with the *Merrimac*, was still the property of private individuals.

We trust these few points and the brief history of our transactions with the Department in connection with the *Vesuvius*, may assist you to convince the Secretary of the righteousness of our claim to have the penalties refunded.

Yours, very truly,

PNEUMATIC DYNAMITE GUN COMPANY,
A. D. SCHUYLER,
President.

C. E. CREECY, Esq.,
38 Corcoran Building, Washington, D. C.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 9.

ADDITIONAL CLERKS, DISTRICT OF COLUMBIA.

SEPTEMBER 13, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany S. 721.]

The Committee on the District of Columbia, to which was referred Senate bill No. 721, to authorize the Commissioners of the District of Columbia to appoint two additional clerks, has considered the same, and recommend that it pass.

The report made by the Committee on the District of Columbia, in the Senate, on said bill embraces a communication from the Board of Health of the District addressed to the Commissioners of the District, giving reasons for the passage of such a bill, and the indorsement of the District Commissioners recommending its passage; and your committee hereby respectfully adopt the said report and ask to make it their own.

[Senate Report No. 13, Fifty-third Congress, first session.]

The Committee on the District of Columbia, to which was referred the recommendation of the Commissioners of the District, has considered the same and submits as its report the following letter of Dr. Hammett to the Commissioners, and the indorsement of the Commissioners thereon:

HEALTH DEPARTMENT, DISTRICT OF COLUMBIA,
Washington, August 21, 1893.

GENTLEMEN: An immediate increase in the clerical force of the health department is necessary to keep up the work, and in view of that fact, as well as the additional duties to be performed by the assignment to this department of the contagious-disease service, garbage service, house to house inspections, the large increase in the correspondence, the increase in the number of transcripts of births, deaths, and marriages daily applied for, the increase in the number of permits for burials, transfers, etc., the care of the library and records, I am compelled to request that two additional clerks be provided, as has been estimated for each year since I have been health officer of the District.

The organic act of Congress creating the health department in 1878 allowed $7,000 for payment of clerks, and that amount was used for the purpose until recently, when Congress classified them, and appropriated only $6,600 for the performance of work that had doubled since the original act was passed and appropriation made and expended. Since this classification was made, so much work has been added that the service is suffering for want of clerks to keep up, not only the work that is imperatively demanded to be done daily, but the other records as enumerated. In a word, the clerical force of this office is overworked, and it will be impossible for me with the present help to keep a correct record of the immense amount of work entailed upon the small number employed, consisting of the chief clerk, assistant, permit

clerk, statistical clerk, and stenographer and typewriter, five in all, in keeping the books and accounts of the office.

The garbage service alone occupies nearly the whole time of the chief clerk during office hours and he is compelled to devote hours daily to the legitimate duties pertaining to the executive work of the office outside of the regular time allotted. Other clerks in the office are also obliged to do the same owing to the excessive amount of labor they have to perform. Not a murmur nor a complaint has been made by these employés, yet I can see that with all this extra labor being done the work is falling behind for reasons heretofore stated.

My estimates for the support of the health department for the fiscal year ending June 30, 1893, say, among other matters, that "the great increase in the number of searches and transcripts of births, marriages, and deaths furnished applicants from the records occupies the greater time of one clerk. As stated by my predecessor in the last annual report of this department, 'the demand in this respect is growing daily in consequence of the recent passage of additional pension laws.'

"Reference to the synopsis of the work performed in the various branches of the service reveals the fact that during the year ending June 30, 1891, there were 1,841 searches made and transcripts furnished applicants, while during the previous year there were only 535, an increase of 1,306 in favor of the past year.

"In addition to this the clerical work of the office has increased largely; many more letters received and written, an additional service (scarlet fever and diphtheria) having been added to the duties of the department, the people having become educated to the fact that we have a health department where their grievances may be made known and their requests promptly attended to, cause an increase in the labor of the clerks and officers of the department. The clerical force stands now where it did in 1878, notwithstanding the augmentation of their duties. It is urged that the slight increase of force asked for be favorably considered."

The foregoing, I think, are sufficient reasons for an immediate increase in the clerical force of the health department, and I earnestly request and recommend that Congress be asked to give me the two additional clerks required at a reasonable compensation.

Very respectfully,

C. M. HAMMETT, M. D.,
Health Officer.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

[Indorsement.]

The Commissioners of the District of Columbia have long been aware of the inadequacy of the clerical force of the health department, as to numbers, to the discharge of the increased business of that branch of the District government, and unhesitatingly recommend that immediate provision be made by Congress for the employment of the moderate addition to that force herein proposed.

JOHN W. ROSS,
MYRON M. PARKER,
CHARLES F. POWELL,
Commissioners of the District of Columbia.

AUGUST 23, 1893.

The committee is satisfied from these facts that the two additional clerks are necessary and should be promptly authorized, and to that end the committee reports the accompanying bill.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 10.

MRS. V. THUNOT.

SEPTEMBER 19, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3203.]

The Committee on Claims, to whom was referred the bill (H. R. 520) for the relief of Mrs. Victor Thunot, report:

Your committee have carefully examined the same and recommend that the substitute which is provided by this committee be adopted, and when adopted that the bill do pass.

Your committee think that the accompanying evidence establishes the claim beyond question. Should there be any doubt, the Government will be fully protected by the bond we require. Your committee print below all the evidence we had before us for the information of Congress.

[Translated from the French.]

Before Charles Buls, mayor of the town of Brussels, in the Kingdom of Belgium, appeared Mrs. V. Thunot, widow, of no occupation, residing at No. 88 Rue Froissart, Brussels, who, being duly sworn according to law, deposes and says that she is the legal owner of the following United States coupon five-twenty bonds: No. 42410, for one hundred dollars ($100); No. 7887, for five hundred dollars ($500); No. 10367, for one thousand dollars ($1,000), of the act of the 25th February, 1862, fourth series; that no transfer of the said bonds or either of them has ever been made or authorized by her or her attorney or agent in any manner whatsoever; that the said bonds have not nor has either of them been mortgaged, pledged, lent, or otherwise left the custody or control of the said owner with her knowledge or consent. The said bonds were bought, viz, No. 42410 on the 11th April, 1873, at Brussels, from Mr. L. Jadot, stockbroker, in consideration of 96.10 per cent paid, namely, 518.94 francs; No. 7887 on the 22nd March, 1873, at Brussels, from Mr. L. Jadot, stockbroker, in consideration of 90.62½ per cent paid, namely, 2,581.87 francs; No. 10367 on the 21st March, 1873, at Brussels, from Mr. L. Jadot, stockbroker, in consideration of 95.65 per cent paid, namely, 5,165.10 francs. Interest and brokerage not included, but paid extra.

That the place wherein these bonds were deposited was one of the rooms of her house, and in a piece of furniture to which she and her sister Mary had alone access; that these bonds having disappeared in the month of December, 1873, notice thereof was immediately given to the police, whose declaration is hereunto annexed marked No. 1.

The investigation conducted by Mr. Bourgeois, commissioner of police, head of the judicial department, could only corroborate her sister Mary's mania of destruction, by whom it was thought these bonds had been burnt. (See the annexed declaration No. 1 above referred to.)

Other valuable securities belonging also to the widow V. Thunot which disappeared about the same time have never turned up either. (See Exhibit No. 1.)

She has the best reasons for believing that these bonds have been made away with, burnt by her sister, Miss Marie Uytterhoeven, who, being a lunatic since 1873, is still confined in 1892. (See the annexed declaration of the Hon. T. Heyvaert, who in his

capacity of public prosecutor at Brussels in 1873 was made acquainted with the facts of the case, and who since, whilst being governor of the provinces of Western Flanders and of the Brabant, continued to watch same. (Exhibit No. 2.)

One of the forms of Miss Marie Uytterhoeven's insanity is to tear up, burn, and destroy her clothes, valuables of every description, linen, etc. She remained under the proper supervision of her family until such time when the neighbors, considering her presence absolutely offered a public danger, she was put under restraint as a measure of precaution by the judicial police. She is still so confined. (See the certificates hereunto annexed of the lunatic asylum directors. Exhibits 3 and 4.)

In reply to a first statement of the case by the honorable minister for Belgium at Washington, the honorable Secretary of the Treasury of the United States of America admits, under date of the 30 January, 1892, "that the bonds in question are still outstanding unpaid; that the last coupons paid are those dated November 1, 1873, and that the records of his Department therefore corroborate the statement made that the bonds in question have been missing since December, 1873." (Copy of the letter of the honorable Secretary of the Treasury hereunto annexed, marked No. 5.)

It was Mr. Heyvaert himself who, in his capacity of public prosecutor in 1873, gave orders for inquiring into the reported loss, for its close investigation, and directed that inquiries be made into the supposed destruction, whilst in a state of insanity, by Marie Uytterhoeven, the sister of Mrs. Thunot (Exhibit No. 2), and it is in accordance with the reply of the honorable Secretary of the Treasury of the United States of America that a faithful account of the proceedings which followed the disappearance of the missing bonds is legally drawn up. Mrs. Widow V. Thunot concludes by stating: All those with whom I am acquainted are aware that these bonds, together with other missing Belgian securities, were my real property; that I know they disappeared under the circumstances which I have set out, and that I should be incapable of claiming same if I thought it might be otherwise. (The report of the police, Exhibit No. 1, shows the ownership of the securities referred to.)

Widow V. THUNOT.

Widow V. Thunot, residing at No. 88 Rue Froissart.

Sworn and subscribed before me this 19th day of February, A. D. 1892, and I certify that Mrs. V. Thunot, widow, formerly Adéle Uytterhoeven, is personally known to me as a person of high respectability and worthy of credit in every respect, and is the identical person mentioned in this affidavit.

[SEAL.]

BULS,
Mayor of the Town of Brussels.

EXHIBIT No. 1.

In the course of the month of December, 1873, Mrs. Victor Thunot, widow, formerly Adèle Uytterhoeven, reported, as mislaid, stolen, or disappeared, certain valuables belonging to her, amongst which various securities of the United States of America, viz: 1 bond of one hundred dollars, 4th series, No. 42410; one bond of five hundred dollars, 4th series, No. 7887; 1 bond of one thousand dollars, 4th series, No. 10367.

It was presumed, at that time, that these securities, together with other valuable property, had been burned by Miss Marie Uytterhoeven, living with the Thunot family, and who was affected with the mania of destroying by fire her clothes, linen, etc.

An investigation, under the direction of Mr. Bourgeois, commissioner of police, head of the judicial department in 1874, could only corroborate this presumption. Neither the securities in question, nor the others also notified, have ever reappeared up to the present time.

Brussels the 18 February, 1892.

F. BOURGEOIS,
Commissioner of Police of the 4th Division, formerly Head of the Judicial Service.

Seen for legalization of the signature of Mr. Bourgeois subscribed on the other side.

Brussels, February 19, 1892.

BULS, *Mayor*. [SEAL.]

EXHIBIT No. 2.

I, the undersigned, Theodore Heyvaert, advocate of the court of appeal, and town councillor of Brussels, domiciled there at No. 120 Rue Blaes, declare the following facts to be within my personal knowledge.

Towards the end of 1873 Mrs. Victor Thunot came to report to me in my capacity of public prosecutor attached to the court of the 1st instance of Brussels, and as a

friend of her family, the disappearance of some valuable property, particularly some bonds of the United States of America, which had come into the hands of her sister, Miss Marie Uytterhoeven.

Although from that very moment we were quite led to believe that the latter had destroyed same whilst laboring under insanity, to which she was at that time subject, I directed the judicial police to actively trace the said securities, in the event of their having been fraudulently taken. In spite of particulars of these having been circulated and careful enquiries made, not one of the securities ever reappeared.

When later on, it became necessary to apply for the confinement in an asylum of Miss Marie Uytterhoeven, who inter alia had the strong mania of destruction, the very grave suspicion which we had formed from the outset, namely, that she must have destroyed by fire the missing securities unconsciously or otherwise, has since transformed into a quasi absolute conviction, as she previously destroyed a note of national bank of Belgium, of which fortunately a few fragments were found.

In witness whereof I have to this present declaration set my hand at Brussels this 20th February, 1892.

HEYVAERT.

Seen for legalization of the signature of Mr Heyvaert subscribed above.
Brussels, February 20, 1892.
For the mayor.
[SEAL.]

A. DE POTTER,
Delegated Alderman.

EXHIBIT No. 3.

I, the undersigned, director of the lunatic asylum of Schaerbeek, certify that Miss Marie A. L. Uttyerhoeven was placed under my care by her sister, Mrs. Thunot, on the 27 February, 1880, she being of unsound mind ; that she left my establishment on the 25 November, 1880, to enter the lunatic asylum at Uccle, where she is still under treatment.

Schaerbeek, February 15, 1892.
Pro my father indisposed.

E. MAEK.

Seen for legalization of the signature of Mr. Et. Maeck, domiciled in this commune.
Schaerbeek, February 17, 1892.

LAUDE, *Mayor.*

EXHIBIT No. 4.

The undersigned, director of the lunatic asylum at Uccle, declares that Miss Marie Uytterhoeven, born at Brussels on the 18th August, 1841, confined in the said establishment on the 25th November, 1880, is still living there on the date hereof, afflicted with moral madness, and that her principal mania consists in tearing her clothes and destroying such articles as are given her.

Uccle, February 18, 1892.

RYNENBROECK.

Seen by us, mayor of Uccle, for legalization of the signature of Mr. Rynenbroeck.
Uccle, February 18, 1892.
For the mayor.
[SEAL.]

L. VANDERKINDERE, *Alderman.*

[No. 403.]

I, the undersigned, sworn translator to the Brussels courts, do hereby certify and attest to all whom it may concern that the foregoing is an accurate and faithful translation from the French into the English language of the documents of which same purports to be a translation.

Brussels, the 23rd day of February, 1892.

WM. E. SARGEANT.

UNITED STATES CONSULATE,
Brussels (Belgium).

I do hereby certify that the annexed seal and signature are those of Emile Crabbe, chief division bureau foreign affairs, Brussels, and that to all official acts, thus attested, full faith and credit are and ought to be given.

Witness my hand and official seal this 25th day of February, 1892.

[SEAL.] GEO. M. ROOSEVELT,
United States Consul.

Vu par nous, pro président à la cour d'appel séant à Bruxelles pour légalisation de la signature de Wm. E. Sargeant, apposée ci-dessus.

Bruxelles, le 24 février 1892.

[SEAL.] E. EECKMAN.

Vu au ministère de la justice pour légalisation de la signature de Mr. Eeckman, apposée ci-à-côté.

Bruxelles, le 24 février 1892.

[SEAL.] DOMÈS DE SOMERPONT,
Le Secrétaire Général.

Vu pour légalisation de la signature de Mr. le baron Domès de Somerpont, apposée ci-dessus.

Bruxelles, le 24 février 1892.

Pour le ministre des affaires étrangères:

[SEAL.] ÉMILE CRABBÉ,
Le Directeur.

DEPARTMENT OF STATE,
Washington, July 16, 1892.

SIR: I have the honor to inclose for the consideration of your Department a copy of a note from the Belgian minister at this capital, of the 7th instant, covering an original letter addressed by Mr. Le Ghait to the chairman of the Committee on Claims of the House of Representatives, praying the introduction of a bill authorizing the payment to Mrs. Victor Thunot, of Belgium, of certain United States bonds alleged to have been destroyed in 1873. The character of the bonds and the allegations as to their destruction are fully disclosed by Mr. Le Ghait's note to Mr. Bunn.

I have therefore to request that you will promptly bring the matter to the attention of Congress in such manner as will secure the introduction, if possible, of a bill for the relief of Mrs. Thunot, as prayed for.

I have the honor to be, sir, your obedient servant,

JOHN W. FOSTER.

The SECRETARY OF THE TREASURY.

[Translation.]

LEGATION OF BELGIUM,
Washington, July 7, 1892.

Mr. SECRETARY OF STATE: According to the advice and information given to me by the Treasury Department, I have the honor to transmit herewith to your excellency a petition addressed to the "chairman of Committee on Claims, House of Representatives," for the introduction of a bill authorizing the repayment to the said Madame Thunot of certain bonds of the United States which have disappeared since 1873.

Praying your excellency to have the kindness to have this petition forwarded to Congress, I beg you to accept the assurances of my highest consideration.

A. LE GHAIT.

His Excellency JOHN W. FOSTER,
Secretary of State, etc.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., July 19, 1892.

SIR: I have the honor to transmit herewith a letter from the honorable Secretary of State, dated the 16th instant, inclosing a letter from the Belgian minister, dated the 6th instant, addressed to you, making application on behalf of Mrs. Victor Thunot, widow, of Brussels, Belgium, for the payment of certain United States five-

twenty coupon bonds of the act of February 25, 1862, fourth series, amounting to $1,600, alleged to have been destroyed by a sister of Mrs. Thunot, a lunatic.

I also transmit a copy of an affidavit on file in this office of Mrs. Victor Thunot, supported by corroborative evidence of the destruction of the bonds in question.

The records of this Department show that none of the coupons of these bonds maturing after November 1, 1873, have been presented for payment, and that the bonds themselves are still outstanding, unpaid. In view of the accurate description given by the claimant of the bonds alleged to have been destroyed, and of the fact that the records corroborate her statements as to the probable date of the destruction alleged, I respectfully recommend favorable action upon the claim.

Respectfully, yours,

CHARLES FOSTER,
Secretary.

Hon. B. H. BUNN,
Chairman Committee on Claims, House of Representatives.

WASHINGTON, *July 6, 1892.*

SIR: I have the honor to make application, through the Department of State, to the Congress of the United States, for the relief of Mrs. Victor Thunot (widow), No. 88 Rue Froissart, Brussels, Belgium, in the matter following, to wit:

Madame Thunot was the legal owner of sixteen hundred dollars ($1,600) United States five-twenty coupon bonds, act of February 25, 1862, fourth series. These bonds were kept at her house, deposited in a piece of furniture, to which she and her sister Marie alone had access. The said bonds disappeared in the month of December, 1873, and diligent search was made by her and also by the commissioner of police for their recovery, but without result. Other valuable securities belonging to Madame Thunot disappeared about the same time, and have never been recovered. Madame Thunot has the best reasons for believing that the said bonds were destroyed by her sister, Miss Marie Uyttechoeven, who has been a lunatic since 1873, and is still at present under treatment in the lunatic asylum at Uccle, Belgium. One of the forms of Miss M. Uyttechoeven's insanity is to tear up, burn, and destroy her clothes, valuables of every description, linen, &c., &c.

Application has been made at the Treasury Department for the payment of the bonds, but as "clear and unequivocal proof" of their destruction could not be produced, I am advised to apply to Congress for her relief. I would, therefore, respectfully request that a bill be introduced in the House of Representatives, authorizing and directing the Secretary of the Treasury to redeem, in favor of said Madame Thunot, the following described United States coupon bonds, act of February 25, 1862, fourth series, viz: One bond, No. 42410, for one hundred dollars, with interest thereon from November 1, 1873, to July 20, 1875; one bond for five hundred dollars, with interest thereon from November 1, 1873, to May 18, 1875; one bond for one thousand dollars, with interest thereon from November 1, 1873, to January 1, 1875.

The records of the Treasury Department show that the above bonds are still outstanding and that the last coupons redeemed bear date of November 1, 1873.

The affidavits of Madame Thunot relating to the loss of the bonds, with other papers in the case, may be obtained on application to the Secretary of the Treasury.

Accept, sir, the assurances of my high consideration.

A. LE GHAIT,
Belgian Minister.

Hon. BENJAMINN H. BUNN,
Chairman Committee on Claims,
House of Representatives.

WASHINGTON, *21 Xbre.,'92.*

DEAR SIR: In the first days of the last month of July I have had the honor to address to you, through the Department of State, a letter praying the introduction of a bill for the relief of Mrs. Victor Thunot, of Belgium, on account of the destruction of certain United States bonds since 1873.

A favorable advice had been given by the Secretary of the Treasury.

I would be very much oblighed to you if this question could be brought before Congress without delay, and thanking you beforehand, I beg you to believe me, dear sir,

Very sincerely, yours,

A. LE GHAIT.
Belgian Minister, 1336 I Street.

Hon. B. H. BUNN,
Chairman Com. on Claims.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., September 13, 1893.

SIR: In reply to your letter of the 11th instant, I have the honor to inform you that the bill inclosed therein, "directing the issue of duplicate United States bonds to Mrs. Victor Thunot" (H. R. 520), is not in accordance with the recommendations of this Department. The bonds alleged to have been destroyed are coupon bonds of the act of February 25, 1862, fourth series. They have all been called for redemption and ceased to bear interest, as follows:

No. 42410, for $100, on July 20, 1875; No. 7887, for $500, on May 1, 1875, and No. 10367, for $1,000, on January 1, 1875. A bill for the relief of Madam Thunot should, therefore, provide for the redemption of the bonds in question with interest from November 1, 1873, to the respective dates of maturity of the bonds in question, and not for the issue of duplicates as provided in H. R. 520.

The inclosures received with your letter are herewith returned as requested.

Respectfully, yours,

CHARLES S. HAMLIN,
Acting Secretary.

Hon. B. H. BUNN,
House of Representatives.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 11.

RALEIGH, N. C.

SEPTEMBER 20, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 19.]

The Committee on Claims, to whom was referred the bill (H. R. 19) for the relief of the city of Raleigh, N. C., report:

The Government of the United States is justly indebted to the city of Raleigh in the sum of $734.66, the same being one-third of the cost of paving Fayetteville street and Martin street in front of the United States court-house and post-office building in said city with stone. The work has been entirely completed and paid for by said city and certified to by Thomas Badger, mayor of said city, and E. A. White, custodian of said Government property.

Your committee therefore report back said bill with the recommendation that it do pass.

The United States Government to the city of Raleigh, N. C.

Dec., 1889. To paving with stone blocks in front of the United States court-house on Fayetteville and Martin streets, 612⅞ yards, at $1.20... $734.66
(On Fayetteville street, 125 by 20 feet. On Martin street, 210 by 14½ feet.)
The above is for one-third of the cost of paving the said streets named.
I hereby certify that the above account is correct.

THOMAS BADGER,
Mayor of the city of Raleigh, N. C.

I hereby certify that the above work has been done in a satisfactory manner and the above account is correct.

E. A. WHITE,
Custodian.

U. S. COURT-HOUSE AND POST-OFFICE,
Raleigh, N. C., September 11, 1893.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 12.

BENJAMIN ALFORD.

SEPTEMBER 20, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 522.]

The Committee on Claims, to whom was referred the bill (H. R. 522) for the relief of Benjamin Alford, report it back to the House with a recommendation that it do pass.

Your committee find the facts to be as follows: The claimant is the owner of a grain distillery in Johnston County, N. C., and that $28.70 was reported against him for the month of February, 1893, on package No. 10, 43 gallons, and $40.50 for March, 1893, on package No. 15, 45 gallons, making a total of $79.20.

On the 15th day of March, 1893, the said distillery was broken open and the packages, Nos. 10 and 15, were stolen therefrom.

The aggregate of these two sums, viz, $79.20, was paid under protest by the claimant, he having made application for release, which was refused by the Department upon the ground that the Department had no right to allow a credit for the same, inasmuch as there was no proof of the actual destruction of the contents of packages Nos. 10 and 15.

The evidence shows to the satisfaction of your committee that these two packages were traced to the possession of one A. P. Hatcher, who was arrested and indicted for stealing said packages.

The contents of these packages were changed into other packages, which had paid no taxes, and were seized by the Government officers and sold for taxes, and the taxes upon the same were also paid from the proceeds of said sales, so that the Government has received the taxes twice. The claimant has lost his whisky and then is forced to pay the taxes which were assessed against him in February and March.

The passage of this bill is recommended by C. A. Cooke, attorney for the eastern district of North Carolina; also by the collector of customs for the fourth North Carolina district, in which district this distillery is situated, and by the collector of internal revenue.

Your committee has not reported the evidence because of its great volume, but for the information of all who desire to examine it they have caused it to be filed in the files room of the House of Representatives.

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J. M. BILLINGS.

SEPTEMBER 20, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 995.]

The Committee on Claims, to whom was referred the bill (H. R. 995) for the relief of J. M. Billings, of Santa Clara, Santa Clara County, State of California, for money orders and stamps and other property stolen from the post-office, beg leave to report the same with the recommendation that it do pass.

The committee has carefully considered the evidence, which is herewith submitted, and are of the opinion that the claimant is entitled to the relief he seeks.

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioner, J. M. Billings, respectfully asks that a bill be passed to reimburse him for money stolen from the United States post-office in the town of Santa Clara, State of California, on the night of September 12, 1876.

Your petitioner at the time of the loss was postmaster of said office, and was such from March 1, 1871, to April 30, 1887, and during this period he has always acted with diligence and honesty in the discharge of his duties.

That he paid the amount stolen, to wit, the sum of $855, immediately thereafter to the Post-Office Department, and the Government has had the use and benefit of this fund for fifteen years. Petitioner respectfully appeals at this time for repayment to him of the said sum of $855 and legal interest thereon for the reason that it was not through any negligence or carelessness on his part that the robbery occurred, and upon the further ground that he is old and not rugged in health, and needs this money to support him in his old age.

Your petitioner has heretofore applied for relief, but owing to the great amount of business to be transacted by your respective bodies his small and humble petition has been crowded aside, so that other and more pressing matters of Congress might be considered.

Your petitioner annexes hereto affidavits of himself and those of respectable citizens who were conversant with the facts at the time of the robbery.

Wherefore your petitioner prays that his petition be granted.

JAMES M. BILLINGS.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

J. M. Billings, being first duly sworn, deposes and says: That he is a resident of the county of Santa Clara, State of California, and is of the age of 68 years; that he was postmaster of the United States post-office in the town of Santa Clara, county and State aforesaid, from March 1, 1871, continuing until April 30, 1887.

That on the night of September 12, 1876, the said post-office was burglarized, and property stolen therefrom, consisting of postage stamps of the denominations of 1, 2, 3, 5, 10, and 30 cent stamps, amounting to about the sum of $245; also money-order funds amounting to $320, post-office fund $290, total $855; affiant further states that

he has paid the said loss to the Government, having paid the said sum to the United States Government the same year of the loss.

That said robbery was not caused through any carelessness or negligence of affiant; that the post-office was located in the business part of said town, in a well-constructed and secure brick building, and the said property was well protected within proper vaults. The entrance was made into the office by the robbers cutting a hole in the roof and lowering themselves down with a rope; they escaped by opening the back door.

Affiant further states that the reason he has not presented his claim before is that he did not know that the Government would allow him for the money he paid, but as soon as he ascertained that his claim was one that the legislation of Congress had provided for, he made his petition and filed his proofs with the Representative of Congress from his district; that said claims were presented to said Representative some six years ago, and by some error of the clerk at Washington who had charge of the papers they were lost, and so that by the misfortune that has followed the efforts of affiant he has been unable to have his claim acted upon.

Affiant further states that no part of said sum of $855 has ever been paid.

JAMES M. BILLINGS.

Subscribed and sworn to before me the 31st day of March, 1892.

[SEAL.] W. L. JACKSON,
Notary Public.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

Mrs. Gertrude Starr (*née* Whitcomb), being first duly sworn, deposes and says:

That she is a resident of Los Angeles, State of California, and that she is intimately acquainted with the petitioner, J. M. Billings, and conversant with the circumstances of the robbery of the post-office at Santa Clara on the night of September 12, 1876.

That she was a clerk in the post-office at the time, and that she saw the hole that the robbers made in the roof to gain an entrance into the post-office, and assisted the postmaster in ascertaining the amount of property belonging to the Government which was taken by the said robbery, and that same amounted to a valuation of about $860.

MRS. GERTRUDE STARR.

Subscribed and sworn to before me this 4th day of April, 1892.

[SEAL.] HAVNEY STURDEVANT,
Notary Public in and for the County of Los Angeles, State of California.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

W. Fitts, being first duly sworn, deposes and says:

That he is a resident of the county of Santa Clara, Cal., and of the age of 56 years; that he was the town marshal of Santa Clara during the year of 1876; that he well remembers the incident of robbery of the post-office at Santa Clara on the night of September 12, 1876, and as marshal of said town he investigated the cause of said robbery and used his best efforts to obtain all of the facts relating thereto, and endeavored to arrest the parties who committed the theft; that the amount stolen, as near as I can now recall, was about $900.

I have known J. M. Billings for twenty or more years, and know him to be an honest and respected citizen of the said town of Santa Clara.

WILLIAM FITTS.

Subscribed and sworn to before me this 31st day of March, 1892.

[SEAL.] W. L. JACKSON,
Notary Public.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

L. Hart, being first duly sworn, deposes and says:

That he is a resident of Santa Clara County, Cal., and has been for many years; that he is well acquainted with the petitioner, J. M. Billings, and can vouch for his veracity and his standing as an honest, respected citizen of said county.

That said Billings was the postmaster at Santa Clara for many years, and was such on the 12th day of September, 1876, on the night that the office was burglar-

ized; that he is conversant with the incidents surrounding the events immediately subsequent to said robbery.

I was a merchant in said town at the time, and my store was directly across the street from the post-office. At the above date the town of Santa Clara was infested with a band of desperate robbers, who made frequent burglaries in the town, and I had the misfortune to have my store entered and robbed of many valuable articles. I can not now recall the exact amount abstracted from the post-office, but to the best of my recollection the property stolen from the United States Government amounted to the sum of $900.

L. HART.

Subscribed and sworn to before me this 31st day of March, 1892.
[SEAL.] W. L. JACKSON,
Notary Public.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

F. C. Franck, being first duly sworn, deposes and says:

That he is a resident of the town of Santa Clara, State of California, and has been for the past thirty years and more, and that for many years he was a merchant in said town.

I have known the petitioner, J. M. Billings, for many years, and can vouch for his honesty and integrity. I was residing at Santa Clara at the time of the robbery of the United States post-office on the night of September 12, 1876, when J. M. Billings was postmaster. I know it was robbed, for I saw the condition it was in early on the following morning. I am unable to state the exact amount that was stolen from the United States Government. I know it was quite a large amount, somewhere in the neighborhood of $1,000. It was, in fact, the largest robbery ever committed in our town. I know it was a heavy loss to the postmaster, J. M. Billings, who could ill afford to lose it.

F. C. FRANCK.

Subscribed and sworn to before me this 31st day of March, 1892.
[SEAL.] W. L. JACKSON,
Notary Public.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

Nathaniel Cook, being first duly sworn, deposes and says:

I remember very distinctly that our post-office was broken into and robbed, and being very intimate with our postmaster, James M. Billings, I know that the payment to the Government for the losses sustained for supplies, etc., occasioned such a draft on his limited means that he has never recovered; being well advanced in years, he was rendered incapable to labor or embark in any branch of business so as to recover his losses. I do not know the exact amount of his loss, but I am satisfied that it was fully $1,000 or more.

The building in which the post-office was located was fireproof and supposed to be one of the safest from burglary of any in our place.

NATHANIEL COOK.

Subscribed and sworn to before me this 31st day of March, 1892.
[SEAL.] W. L. JACKSON,
Notary Public.

STATE OF CALIFORNIA, *County of Santa Clara, ss:*

B. W. Rucker, being first duly sworn, deposes and says:

That he is a resident of the county of Santa Clara, State of California, and has been for twenty years or more; that he was clerk in the store occupying the same building in which was located the United States post-office at Santa Clara on the 12th of September, 1876; that he knows that the said post-office was robbed on the night of the last-named date.

On the morning of the 13th of September, 1876, when affiant went to open his store I saw J. M. Billings, the postmaster, trying to open the door of the post-office; the lock of the door had been plugged up by stuffing a handkerchief therein, and after the same was taken out the postmaster and affiant went into the mailing room along with one Mr. Sykes (who is now dead).

The robbers cut a hole in the roof and slid down a rope into the office, and after breaking the locks and stealing the property, they made their exit through the back door; the gas having been lit was still burning when we entered. The building was of brick, well secured, and considered the safest building in the city.

The loss for which Mr. Billings made good to the Government amounted to about the sum of $850, as near as I can now recollect.

I have known Mr. Billings for many years, and his reputation as an honorable man is first class.

B. W. RUCKER.
By B. W. RUCKER.

Subscribed and sworn to before me this 31st day of March, 1892.
[SEAL.]

W. L. JACKSON,
Notary Public.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 14.

REPEAL OF SECTIONS 2002 TO 2031 REVISED STATUTES.

SEPTEMBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary submitted the following

REPORT:

[To accompany H. R. 3288.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 245) entitled "A bill to repeal sections 2002 to 2031, both inclusive, of the Revised Statutes of the United States," having had the same under consideration, recommend the following substitute by way of amendment of the said bill, to wit:

Strike out all after the enacting clause, and insert the following, to wit:

That sections 2002 and 5528 of the Revised Statutes both be amended by striking out the words "or to keep the peace at the polls," and that sections 2005 to 2031 inclusive, be and the same are hereby repealed; but this shall not affect any proceeding or prosecution now pending for any offense under said sections, or either of them.

The purpose of the bill is to repeal all sections of the Revised Statutes which provide for deputy United States marshals and supervisors of elections, and thereby to leave all elections to be controlled by the authority of the States, where the power originally and rightfully belongs. There is nothing more irritating at many polling places than the presence of these Federal officials. It frequently causes good men, who would take deep interest in seeing that the election was properly conducted, to withdraw in disgust, and to leave those who are managing the election and the supervisors and deputy marshals to fight it out in their own way.

The passage of the bill will save to the Treasury a large expenditure of money, and do more to secure perfectly fair and honest elections than any legislation Congress can enact touching the subject. If State governments are not to be trusted then our National Government should be changed in form, for in the present one it would become a practical failure. Hence, the committee recommend the passage of the bill amended as they herewith report it.

53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { REPORT No. 15.

BRIDGE ACROSS THE HUDSON RIVER

SEPTEMBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3289.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 57) to authorize the New York and New Jersey bridge Companies to construct and maintain a bridge across the Hudson River, between the city of New York and the State of New Jersey, have considered the matter, and beg leave to report:

A bill was introduced into the last House by Mr. Covert, of New York (H. R. 7585, Fifty-second Congress, first session), was referred to the Committee on Interstate and Foreign Commerce, and after a full hearing was unanimously reported favorably back to the House, recommending its passage. When the bill came up for consideration in the House a substitute was proposed by Mr. Dunphy, of New York, for the Covert bill, which substitute had been approved by the committee, and after full consideration passed the House by the enormous majority of 183, only 7 votes being recorded against it.

The substitute proposed by Mr. Dunphy and passed by the House is identical with the bill introduced by him into the present House on September 6, and before the committee.

It varies somewhat from the bill reported by the committee at the last session, by including three provisos at the end of the second section, which limit all the approaches to the bridge to be made in the city of New York to such as meet the approval of the sinking-fund commissioners of the city of New York, one of which is the mayor of the said city. These provisos were all submitted to the local authorities in the city of New York, and received their unqualified approval; in fact, were prepared by the mayor himself, and accepted by the House at the last session of Congress.

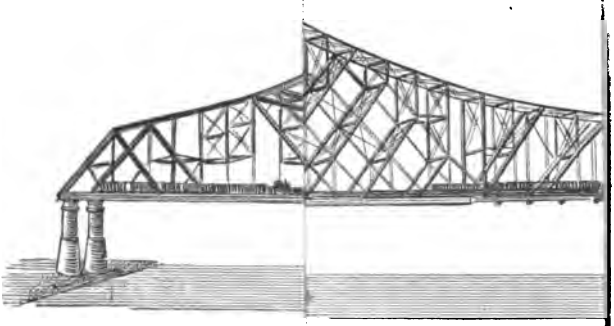
One of the clauses in the bill allows a pier in the river on the New Jersey side to be not less than 2,000 feet in the clear, from the pier, within the existing pier-head line on the New York side; but leaves the Secretary of War, in the exercise of his discretion, the power to make this span greater if the interests of navigation should, in his judgment, require it.

It is fair to say that the New Jersey side of the river does not embrace the main channel, and by the recent order of the Secretary of the Treasury is set apart for an anchorage ground for vessels, thus taking it out of the navigable part of the river, so that any pier which might be constructed or allowed to be constructed by the Secretary of War would not interfere with the navigation of the river.

The charter of the State of New Jersey authorizes such a pier, and there seem to be no objections to its construction, at least none have been made apparent to the committee. The committee is of the opinion that without such a pier it would be impossible to construct a bridge across the Hudson River at the point mentioned. It might be physically possible, as an engineering feat, that such a bridge could be built, but the cost would be so enormous, running far beyond one hundred millions of money, that it would be a financial impossibility to get the funds to build it. We therefore leave the whole matter of the location of the pier and of the bridge to the discretion of the Secretary of War, only providing the bridge shall not be located south of Sixty-sixth street in the city of New York. This clause was added at the instance and upon the recommendation of the Engineering Department, to whom a Senate bill of identically the same character as this was submitted, a few days since, by the Senate Committee on Commerce, and reported upon favorably by the Secretary of War. We append the report hereto with photograph of the model of the bridge as part of this report. We have adopted in the bill all the recommendations of the War Department. The bill is well guarded and protects all the interests of navigation. It also secures the Government the use of the bridge for a nominal sum, only allowing the bridge company to charge for the use of the bridge for the purpose of the mails such a sum as would be allowed a railroad for the same amount of mileage.

When it is remembered that this bridge is estimated to cost twenty millions of money, and many miles of railroads cost less than $20,000 per mile, it will be seen how valuable to the Government will be this provision of the bill. It will enable the Government to pay the same for the use of the bridge for the mails as if it cost $20,000 instead of $20,000,000, which equals 1,000 miles of railroad. We regard the bridge as a matter of vital necessity for the traveling public, and for the great commercial interests of the country, whose center is in New York, its greatest metropolis. The snow and ice in the winter, and fogs at other seasons of the year, frequently render the crossing of the river almost impossible, and very unsafe. Sometimes ten or twelve hours being required to connect the New England roads with the Pennsylvania station at Jersey City. This would all be accomplished safely in from thirty minutes to one hour and a half, if this bridge is constructed, and connection allowed with the New England roads. Considering the enormous number of passengers and freight crossing the river at this point, your committee is clearly of the opinion that this bridge, even if constructed, can handle but a small portion of it—probably not as much as one-fifth. New York has no bridge connecting it with the South and West. Nearly every other great city in the United States has one, and many of them six, where the necessities for them are not one-hundredth part so great. The report made at the last session embodied most of the reasons which convinced the committee with the necessity of the bridge, and we append a copy of it as part hereto. More than twenty thousand people of the city of New York have petitioned for the passage of a bill to bridge the Hudson River, and recommend this bridge. Petitions signed by leading bank presidents, cashiers, railroad presidents, and members of the exchanges have been presented, and it has the support of the great metropolitan press of New York City. No adverse interests have appeared at this session to object to it.

[illegible]mittee, therefore, report back a bill embracing all the [illegible]tions of the War Department, and respectfully recommend



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H. Rep. 15—53-1.

WAR DEPARTMENT,
Washington, D. C., September 7, 1893.

SIR: I have the honor to return herewith Senate bill No. 54, Fifty-third Congress, first session, "To authorize the New York and New Jersey Bridge Companies to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," which was referred to this Department by your letter of the 10th ultimo, with request for such suggestions as may be deemed proper touching the merits of the bill, and to invite your attention to the inclosed report of the acting Chief of Engineers, dated the 24th ultimo, transmitting a copy of a report from the Board of Engineers, dated the 23d ultimo, to whom the bill was referred. A copy of the bill amended in accordance with the views of the Board of Engineers is also inclosed.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON COMMERCE,
United States Senate.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., August 24, 1893.

SIR: I have the honor to return herewith a letter, dated the 10th instant, from the Senate Committee on Commerce inclosing, for the views of the War Department thereon, S. 54, Fifty-third Congress, first session, "A bill to authorize the New York and New Jersey Bridge Companies to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey."

A copy of the bill was referred to the Board of Engineers at New York City, and attention is respectfully invited to the report of the Board, dated the 23d instant, copy herewith.

The Board recommends that the bill be amended as follows:

In line 13, after the word "prescribe," insert "*Provided*, That it shall not be located below Sixty-sixth street, New York City."

In line 43, change the word "or" to "of."

In line 48, change the word "such" to "said."

In line 51, change the words "exterior pier" to "existing pier head."

A copy of the bill with the proposed amendments indicated thereon is submitted, and the Board is of the opinion that the provisions of the bill, as thus amended, will sufficiently protect the interests of navigation.

I concur in the views and recommendations of the Board.

Very respectfully, your obedient servant,

H. M. ADAMS,
Acting Chief of Engineers.

Hon. D. S. LAMONT,
Secretary of War.

House Report No. 909, Fifty-second Congress, first session.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 7585.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7585) giving the approval of the United States Government to the erection of a bridge over the Hudson River, by the New York and New Jersey Bridge Companies upon certain terms and conditions, as provided in the bill, would respectfully report that they have given the matter careful and painstaking consideration, and would respectfully recommend that the same do pass.

The State of New York, by chapter 233 of the laws of New York, of 1890, chartered what is known as the New York and New Jersey Bridge Company, and gave it authority to erect a bridge across the Hudson River for the purposes of traffic. A charter was granted by chapter 520 of the laws of New Jersey as far back as 1868, authorizing the New York and New Jersey Bridge Company to bridge the Hudson River opposite the city of New York. It was provided, however, in that charter, that it should not take effect until the State of New York should grant a similar charter which was done by the act of 1890 aforesaid, which act went into force on April 30, 1890.

Some question having been made as to the legality of the act of 1868, and its subsequent repeal, by the provisions of the general laws of the State of New Jersey, it was provided by chapter 85, laws of 1891 of said State, that any defect that might be claimed to exist in the charter granted in 1868 should be cured.

And the same legislature at the same session passed two other acts, chapters 86 and 87, covering all questions of the reorganization of the company authorized by the original act.

The action provided to be taken by chapter 86, above referred to, has been taken. The certificate of acceptance has been duly made and filed with the secretary of state of New Jersey, the same having been approved by the governor and attorney-general of that State.

The New York and New Jersey companies have been organized according to the terms of their respective charters. The requisite amount of stock, to wit, $300,000, required by the New York charter, has been subscribed and paid for as therein required.

The amount of $100,000 of stock in the New Jersey Company has been subscribed, and the payments as required by the New Jersey charter have been made thereon.

The company authorized by the New York charter was organized

October 1, 1890, and the company authorized by the New Jersey charter was organized September 2, 1891.

The two companies have united, or consolidated their interests, the union and consolidation having been completed December 31, 1891.

A large amount of land has been purchased for the construction of the bridge and its approaches on both sides of the river, and ground was formally broken on each side in December, 1891, and construction commenced.

The commissioners appointed to organize the company under the charter of the State of New York, with Andrew H. Green at their head, met, and having organized, as required by the charter, formally located the bridge.

They called to their assistance Thomas C. Clarke as chief engineer, and Charles B. Brush as assistant engineer, who, after a thorough and exhaustive examination of the river banks and sites on which a bridge might be located, and bored the bottoms of the stream, to ascertain satisfactory foundations for the piers on which it was to rest, and all being present and acting unanimously, adopted and made the location of the bridge, approaches, connections, and stations at the point provided for in the bill now recommended by the committee.

During the progress of this work the New York and New Jersey bridge companies have paid out and expended a very large amount of money. They have likewise obligated themselves and become irrevocably responsible for another very large sum of money in order to carry it out.

These large expenditures and obligations have been incurred in good faith, and with a reasonable expectation that the Congress of the United States would allow the States of New York and New Jersey to carry out this great public work if they desire to do so.

A bill substantially the same as this, No. 455, was introduced into the Senate by Senator Hiscock, referred to the Secretary of War, and has been approved by him, and its passage recommended with certain modifications, all of which have been adopted and incorporated into the present bill.

The bill, however, provides, in order to more fully guard against any obstruction to the river commerce, that the whole matter shall be again submitted to the Secretary of War for his approval, upon hearings which he is to hereafter hold.

All the plans and specifications, and all modification of the same, are to undergo the careful scrutiny of the Chief of Engineers of the War Department, and are to be fully approved before construction is begun.

No bridge bill has been submitted to the committee which so carefully guards the interests of commerce and the rights of the public.

It is brought directly under the control of the Interstate Commerce Commission, and all disputes between the railroad companies, connecting themselves with it and the bridge company, either as to the equality or the equity of the tolls charged, is to be finally determined by the Interstate Commerce Commission.

The location of the bridge as fixed by the bill, but which must be hereafter again approved by the Secretary of War before it becomes final, is at or about Seventieth street, in New York, extending in a direct line with said street across the river to New Jersey, north of the southerly line of the township of Union, in the county of Hudson, and is believed to be, all things considered, the best location for the public convenience.

On the New Jersey side connections are to be made with all railroads that come to the west side of the river.

On the New York side the approaches extend southerly and to Broadway, then reversing run northerly along the Hudson River to a level, and outside and west of the Hudson River Railroad tracks to about One hundred and fifty-third street; then running above the tracks of that road turning to the east, by tunnel through the hill, so as to reach and make connections with all the railroads from the north and east, thus making unbroken wheel traffic into and through the city of New York to all sections of the country both possible and practicable.

It will practically annex the island of New York to the continent, and save hours of delay in travel, and lessen expense and annoyances.

It will cheapen and facilitate the transportation of the immense volume of products that now have no other way of transit to or around the city of New York than the flat boat, and for passengers no other or better way than the ferry boats.

Nearly, or quite, one hundred and thirty million tons of freight are brought by rail to the west side of the river annually; and nearly, or quite, eighty million of persons pass yearly over the Hudson River by ferry.

These are subject to frequent delays and dangers by reason of fogs, ice, and river crafts, and make the beginning or end of a journey to or from the city of New York expensive, tedious, and disagreeable.

The bridge, with its connections, when completed, will obviate all these.

Some objection has been made to Congress agreeing that these States may bridge the river on account of an act passed on the 11th day of July, 1890, to build the bridge across the Hudson River, known as the North River Bridge Company.

The act will be found 26 Statutes at Large of the United States, page 268.

The bridge authorized by this act has been located so as to cross into the city of New York about Tenth street, which is more than 1 mile from the location of the present bridge.

An examination of the records shows that there are now at the city of Cincinnati, across the Ohio River, Newport and Covington, five large bridges, and the present Congress is asked to authorize another. As each of these bridges was constructed the same contention was as here made, that commerce did not require it, but it was overruled and the bridge authorized, and they have been found both profitable, useful, and necessary.

There are three large railroad bridges across the Mississippi River at or near St. Louis.

In fact an examination of the subject leads us to believe that in no case has Congress ever refused to authorize the bridging of a stream by any company when they came with the authority of the State to do so. Many other cities with from two to five bridges might be cited whose commerce is inconsiderable compared with the great city of New York.

It is barely possible that Congressional authority is at all necessary to construct a bridge when authorized by the States if it does not in some way interfere with river traffic.

But large investments and enterprises of the magnitude of this ought to have and receive encouragement at the hands of Congress by approval in advance of a structure of such vital importance and which is agreed to be again submitted to the Secretary of War and the Chief of Engineers for their approval before work is begun.

The history of the Forty-ninth Congress shows that 58 bridges were authorized by that Congress; that 90 bridges were authorized by the Fiftieth Congress; that 54 were authorized by the Fifty-first Congress, at its first session; that these bridges were scattered all over the country and allowed whenever and wherever capitalists desired to invest their money in public enterprises of this kind.

The statistics presented to the committee show clearly that 80,000,000 passengers and 130,000,000 tons of freight, annually, cross the Hudson River between the city of New York and State of New Jersey and will furnish ample traffic for three or four bridges, much less two.

It does not appear that any other objection is urged or raised with which Congress has any right or authority to deal or which in any way affects or ought to affect the action of Congress in the present matter.

We refer to the report upon a similar bill made by Mr. Mason, from the Committee on Commerce, at the first session of the Fifty-first Congress, and append it with the accompanying documents as part hereof. We also append the letters of the Secretary of War, dated December 30, 1891, to the chairman of the Committee on Commerce of the Senate, and the inclosure of Thomas Lincoln Casey, brigadier-general and Chief of Engineers, as part of this report, approving of a similar bill.

House Report No. 3167, Fifty-first Congress, first session.

Mr. MASON, from the Committee on Commerce, submitted the following

REPORT:

[To accompany H. R. 10905.]

The Committee on Commerce, to whom was referred the bill (H. R. 10905,) granting the consent of the United States Government to the erection of a bridge over the North River by the New York and New Jersey Bridge Company, for passenger and other traffic over the navigable waters between New York State and the State of New Jersey, would respectfully report that they have given the matter careful and painstaking consideration, have heard all the arguments adduced by the parties in interest, and would respectfully recommend that the same do pass, with the following amendment as section seven:

SEC. 7. That the bridge to be located under this act shall not be located within one mile of any other bridge already located under authority of Congress of the United States.

This is a bill authorizing the New York and New Jersey Bridge Companies to build a bridge across the Hudson River, between New York City and the State of New Jersey.

The said New York and New Jersey Bridge Company have a special charter from the State of New Jersey by an act known as chapter 520, of the laws of New Jersey, of 1868, which charter was to become a law and go into effect from the time that the State of New York should grant a similar charter, with similar power, and the State of New York did grant to the New York and New Jersey Bridge Company similar powers by an act known as chapter 233, of the laws of New York, of 1890, in force April 30, 1890, and the said company has, so far as the States of New York and New Jersey can give it, authority from those States to erect said bridge, and that commissioners from the State of New York have met, organized, and are now engaged in the work of locating said bridge, and performing the duties prescribed in the laws of New York, and only need the act of Congress, proposed by this bill, to proceed to building said bridge.

This bill has been referred to the Secretary of War, and is favorably recommended by him, and there can be no objection to the construction of this bridge, so far as navigation is concerned, as it is intended and designed to be a suspension or cantalever bridge, entirely out of the way of navigation and commerce, and the height is left to be fixed by the Secretary of War.

The committee recommends an amendment by adding section 7, which provides that a bridge should be located at least one mile distant from any other bridge already located. This amendment is made for the reason that the present Congress has already passed a bill for the North River Bridge Company, authorizing the construction of a similar bridge

across the same river, and objection has been made to the granting of this right to build a bridge on the ground that the North River Bridge Company was the first company granted that right, and that no other charter should be granted; your committee, however, fail to see any reason for refusing to one company what has already been granted by this Congress to another, so long as the same does not interfere in the least with navigation and commerce, and the committee sets out herewith, and makes a part of its report the said charter.

The necessity for this bridge is apparent on account of the railroads which have their terminus at Jersey City, Hoboken, and Weehawken, taking an interest in the project chartered by the States of New York and New Jersey, some of which have subscribed for the stock, and will become directors in the company.

The plans are such that assure the building of the proposed bridge; because the grades to and from the bridge, at the depot to be located within the central part of the city of New York, will not exceed 50 feet to the mile.

It has been shown to the Committee on Commerce that over 60,000,000 passengers per year will be better accommodated by having the depot for all the roads now centering upon the west side of the Hudson River within the city of New York, and which would obviate the danger now experienced from ice and fog.

The commercial interests will also be greatly benefited. In fact, the whole country will be benefited, and become interested in the enterprise.

Leading men from both the States of New York and New Jersey have been appointed commissioners, and are now at work in apparent good faith, and cash subscriptions are now being made for the construction of the bridge.

The structure authorized by this act will in no wise conflict with or impair the interests of the North River Bridge Company, which was chartered by said bill which passed the Congress of the United States, but is in all respects a legitimate enterprise which has received the sanction of the two States and should, we believe, notwithstanding the objections of parties interested in the said North River Bridge, receive the consent of Congress as a matter of comity to the two States, which by legislative enactment have authorized the incorporation of these companies.

Chapter 233, of the laws of New York, incorporating the New York and New Jersey Bridge Company, is in these words, to wit:

[Laws of New York. By authority. Every law, unless a different time shall be prescribed therein, shall commence and take effect throughout the State, on and not before the twentieth day after the day of its final passage, as certified by the Secretary of State. Sec. 12, title 4, chap. 7, part 1. Revised Statutes.]

CHAP. 233.

AN ACT* to incorporate the New York and New Jersey Bridge Company, for the purpose of constructing and maintaining a permanent bridge for passenger and other traffic over the waters between New York City and the State of New Jersey, together with all necessary connections, appurtenances and approaches thereto and stations.

The people of the State of New York, represented in senate and assembly, do enact as follows:

SECTION 1. All persons who shall become stockholders pursuant to this act shall be and they are hereby incorporated and created a body corporate by the name of the New York and New Jersey Bridge Company, with power to associate with any other persons, company, association or corporation in the United States, for the purpose of

*Became a law without the approval of the governor, in accordance with the provisions of article four, section nine of the Constitution, April 30, 1890. Passed, three-fifths being present.

constructing and maintaining a permanent bridge, for passenger and other traffic, over the waters between New York City and the State of New Jersey, together with all necessary appurtenances and approaches thereto and stations, and in case of destruction, to reconstruct the same.

PAR. 2. The capital stock of said corporation shall be ten million dollars, to be divided into shares of one hundred dollars each.

PAR. 3. The affairs of said corporation shall be managed by a board of thirteen directors, all of whom shall be stockholders of the corporation, holding at least ten shares each; and after the first election said directors shall be chosen annually on the first Tuesday in June in each year, at such place as the stockholders may direct, and upon such notice to the stockholders as a majority of the directors may appoint, by a majority of the stockholders voting at such election, in person or by proxy, and in such manner as may be prescribed by the by-laws of the corporation, and such directors shall continue to be directors until others are elected in their places; and in the election of directors, and in every other case wherein a vote shall be submitted to the stockholders and a poll demanded, such stockholders shall be entitled to one vote, personally or by proxy, on every share held by him* for at least thirty days previous to any such election or vote being taken. All vacancies which shall occur in the board of directors, by death, resignation, mental incapacity, or otherwise, shall be filled by appointment by a majority of the remaining members for the balance of the term thus vacated. A majority of said board shall at all times form and constitute a quorum for the transaction of business.

PAR. 4. The directors shall have power to make all reasonable by-laws and rules consistent with general laws for the government of the corporation and its officers and agents, and to fix such rates of toll for the use of the said bridge, appurtenances, and approaches thereto, and stations; and from time to time change the same, as they may deem expedient, subject to the limitations hereinafter contained, and may require from stockholders payment of all sums of money by them subscribed, at such time and in such proportions as may be deemed proper, under the penalty of a forfeiture of their respective shares, and all payments thereon, first giving thirty days' previous notice of such call in one or more newspapers printed in the city of New York.

PAR. 5. All the stockholders under this act shall be severally and individually liable to an amount equal to the amount unpaid on the stock held by them respectively, for all debts and liabilities of such corporation, until the whole amount of the capital stock so held by said stockholders, respectively, shall have been paid, and a certificate or certificates thereof filed in the office of the clerk of the county of New York, on the part of each or all of said stockholders, stating that the respective amounts of each have been paid.

PAR. 6. The said corporation shall possess the general powers and privileges and be subject to the restrictions and liabilities prescribed in title three of chapter eighteen of part first of the Revised Statutes, so far as the same are applicable thereto. But all railroads desiring to connect with said bridge shall have equal rights of transit for their passengers and freight upon the same equal and equitable terms.

PAR. 7. The said corporation is hereby empowered to purchase, acquire, receive, hold, and use such real estate or interest therein as may be necessary and convenient in accomplishing the object for which this charter is granted, and shall have the power to locate and construct the necessary connections to and for railroads to connect therewith; but nothing in this act contained shall authorize said bridge* company to lay down railroad tracks; but said corporation may, by its surveyors, engineers, agents, or officers, enter upon such real estate, sites, and locations and take possession of the same, except any public park or surface of any street or avenue in said city. All such real estate, sites, and locations as shall be entered upon as aforesaid shall, except donations, be purchased of the owner or owners at a price to be mutually agreed upon. In case any such corporation can not agree with the owner or owners of any such real estate, or of any interest therein, within the boundaries of the State of New York, it shall have the right to acquire title to the same in the manner and by special proceedings prescribed in this act.

PAR. 8. For the purpose of acquiring such title the said corporation may present a petition, praying for the appointment of commissioners of appraisal to the supreme court at any general or special term thereof held in the judicial district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the corporation seeks to acquire; and it must, in effect, state that the corporation is duly incorporated, and that it is the intention of the incorporation, in good faith, to construct and finish a bridge over the waters between New York City and the State of New Jersey, with appurtenances and approaches thereto and stations; that at least three hundred thousand dollars of the capital stock of said corporation has been in good faith subscribed for; that the land described in

* So in the original.

the petition is required for the purpose of constructing or operating the proposed bridge, appurtenances and approaches thereto, and stations; and that the corporation has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or who claim to own or have, estate or interest in the said real estates; and if any such persons are infants, their ages, as near as may be, must be stated; and if any such persons are idiots or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the corporation may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the supreme court, must be served on all persons whose interests are to be affected by the proceedings at least ten days prior to the presentation of the same to the said court.

PAR. 9. On presenting such petition to the supreme court as aforesaid, with proof of service of a copy thereof, and notice as aforesaid, all persons whose estates or interests are to be affected by the proceedings, may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and all allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of five disinterested and competent persons, who shall be free-holders and reside in the county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the corporation, and to fix the time and place for the first meeting of such commissioners.

PAR. 10. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the constitution. Any one of them may issue subpœnas, administer oaths to witnesses, and any three of them may adjourn the proceedings before them from time to time in their discretion. Whenever they meet, except by the appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties who are to be affected by their proceedings or their attorney or agent. They shall view the premises described in the petition and hear the proofs and allegations of the parties and reduce the testimony, if any is taken by them, to writing; and after the testimony is closed in each case, and without any unnecessary delay and before proceeding to the examination of any other claim, a majority of them all being present and acting, shall ascertain and determine the compensation which ought justly to be made by the corporation to the party or parties owning or interested in the real estate appraised by them; and in determining the amount of such compensation they shall not make an allowance or deduction on account of any real or supposed benefit which the party in interest may derive from the construction of the proposed bridge, appurtenances, or approaches thereto. or stations. They, or a majority of them, shall also determine and certify what sum ought to be paid to a general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interest of any unknown owner or party in interest not personally served with notice of the proceedings, and who has not appeared, for costs, expenses, and counsel fees. They shall make a report to the supreme court, signed by them or a majority of them, of the proceedings before them, with the minutes of the testimony taken by them, if any. Said commissioners shall be entitled to three dollars for their expenses and services for each day they are engaged in the performance of their duties, to be paid by the corporation.

PAR. 11. On such report being made by said commissioners the corporation shall give notice to the parties or their attorneys to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof for the confirmation of such report, and the court shall thereupon confirm such report, and shall make an order containing a recital of the substance of the proceedings in the matter of the appraisal and a description of the real estate appraised for which compensation is to be made, and shall also direct to whom the money is to be paid, or in what bank and in what manner it shall be deposited by the corporation.

PAR. 12. A certified copy of the order so to be made, as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated; and thereupon and on the payment and deposit by the corporation of the sums to be paid as compensation for the land, and for costs, expenses, and counsel fees, as aforesaid, and as directed by said order, with interest from the date thereof, the corporation shall be entitled to enter upon, take possession of, and use the said land for the purpose of its incorporation, during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate, and interest in such real estate, during the corporate existence of the corporation, as aforesaid. If the corporation shall neglect to have such order recorded, and to make the payment or

deposit as herein provided, for the period of ten days after the date of such order, any party to such proceedings, and interested therein, may, at his election, cause a certified copy of the said order to be recorded as aforesaid, and thereupon the moneys therein directed to be paid, with interest thereon from the date of said order, shall be a debt against the corporation, and the same shall be a lien on such real estate, and may be enforced and collected by action at law or in equity in the supreme court with costs. All real estate acquired by this corporation under and pursuant to the provisions of this act, for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the eleventh section of this act, either party may appeal, by notice in writing to the other, to the supreme court, from the appraisal and report of the commissioners. Such appeal shall be heard by the supreme court at any general or special term thereof, on such notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal before the same or new commissioners, in its discretion. The second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be made by the corporation is increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the corporation to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished, the difference shall be refunded to the corporation by the party to whom the same may have been paid; and judgment thereof may be rendered by the court on the filing of the second report against the party liable to pay the same. Such appeal shall not affect the possession by such corporation of the land appraised; and when the same is made by others than the corporation, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession.

PAR. 13. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as a compensation for the real estate taken, the court may direct the money to be paid into said court by the corporation, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion order a reference to ascertain the facts on which such determination and order are to be made. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as it deems it proper; and also to appoint other commissioners in the place of any who shall die, or refuse or neglect to serve, or be incapable of serving.

PAR. 14. If at any time, after an attempt to acquire title by appraisal of damages, or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the corporation may proceed anew to acquire or perfect such title in the same manner as if no appraisal had been made; and at any stage of such new proceedings the court may authorize the corporation, if in possession to continue in possession, and if not in possession to take possession and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the corporation on account thereof on such corporation paying into court a sufficient sum, or giving security, as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case the party interested in such real estate may conduct the proceedings to a conclusion if the corporation delays or omits to prosecute the same.

PAR. 15. In case any title or interest in real estate required by said corporation for the purpose of its incorporation shall be vested in any trustee not authorized to sell, release, and convey the same, or in any infant, idiot, or person of unsound mind, the supreme court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee or such infant, idiot, or person of unsound mind, to sell and convey the same to such corporation, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot, or person of unsound mind has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release, or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper; but before any conveyance or release authorized by this section shall be executed the terms on which the same is to be executed shall be reported to the court on oath, and if the court is satisfied that such terms are just to the party interested in such real estate the court shall confirm the report and direct the proper conveyance or release to be executed, which shall have the same effect as if executed by an owner of said land having legal power to sell and convey the same.

PAR. 16. The said corporation is hereby empowered to merge and consolidate its capital stock, franchises, and property with the capital stock, franchises, and property of

any other corporation or corporations, and for such purpose shall possess the general powers and privileges and be subject to the restrictions and liabilities prescribed in the act entitled "An act authorizing the consolidation of certain railroad companies," passed May twentieth, eighteen hundred and sixty-nine, and any act or acts amending or extending the same, so far as the same are applicable thereto, except as provided in section seven of this act; and said corporation shall further have the power to lease the said bridge, appurtenances, and approaches thereto, and stations, to any chartered corporation for such time and on such terms as may be agreed upon.

PAR. 17. The said corporation or the new corporation, in case of consolidation with any other corporation or corporations, shall have the power, from time to time, to borrow such sums of money as may be necessary for constructing and completing and maintaining the said bridge, appurtenances, and approaches thereto, and stations, and for acquiring the necessary real estate for the site thereof, the necessary stations, buildings, and appurtenances thereof and the approaches thereto, and to mortgage its corporate property and franchises and issue its bonds to secure or provide for the payment of any debt which shall be contracted by such corporation for the purposes aforesaid; and it shall be lawful for any corporation chartered by the legislature of this State or by any other State to loan its credit to the corporation hereby created, or to subscribe to become the owner of the stock thereof, in like manner and with like rights as individuals. Any corporation or corporations having entered into such lease and agreed for the loan of its or their credit for that object by direct guaranty, or traffic, or otherwise, the said corporation hereby chartered, or the new corporation in the case of consolidation, may issue bonds, which shall bear the credit or guaranty of said corporation or corporations, to an amount not exceeding thirty millions of dollars, which will have the same charge and effect upon the undertaking and property, and to the same extent, as if secured by way of mortgage, as in this section provided.

PAR. 18. The said corporation, or corporations being lessee, shall have the right to charge such fair compensation for the use of the bridge and the appurtenances and approaches thereto and stations by the corporations, or by any company whose business shall pass over the same, as shall be found requisite to enable them to pay, first, all the expense of keeping the bridge, appurtenances, and approaches thereto and stations in repair, taxes and interest upon the money borrowed for the construction or maintenance thereof, and dividends not exceeding ten per centum upon capital stock, and such additional sum as will furnish a sinking fund in each year not to exceed five per centum of the amount of the bonded debt, for the purposes of gradually extinguishing the same, and the deficiencies of toll shall* supply all the expenses of keeping the bridge, appurtenances, and approaches thereto, and stations in repair, taxes and interest upon the money borrowed for the construction thereof in any one year may be charged and collected in any subsequent year.

PAR. 19. The governor of the State of New York and the mayor of the city of New York shall, within thirty days after this act shall have been passed and become a law, each appoint a person, who, together with Andrew H. Green, Frank K. Hain, and Charles M. Vail, of the city of New York and State of New York, or the successors of any of them, appointed as hereinafter provided, shall be commissioners, who, or a majority of them, all being present and acting, shall, as soon after their appointment as they may deem expedient have power to locate said bridge, appurtenances and approaches thereto and stations, which location shall not be changed, except by, and with the consent of a majority of the five commissioners so appointed and named, or their successors, and appoint some suitable place in the city of New York to open the books and receive subscriptions to the capital stock of said corporation, of which two weeks' public notice shall be given in at least one of the newspapers published in the county of New York; and said commissioners by majority vote may adjourn from time to time as they may deem proper, and open the books for further subscriptions, until the sum of $300,000 shall have been subscribed in the capital stock, and in case of an excess of subscribers they may, by a majority vote, apportion the stock among the subscribers in such manner as they may deem most likely to promote the interest of the corporation hereby created, by or in the speedy erection and construction of said bridge, appurtenances, and approaches thereto and stations. Each commissioner shall be paid for his services at the rate of $10 per day for each day of actual service as such commissioner, to be paid by the corporation organized hereby or hereunder, and said corporation shall also pay the necessary disbursements incurred by said commissioners in the performance of their duties. In case of death, resignation, or removal for cause or failure to qualify of any of said commissioners or their successors, the governor shall appoint a successor in his place and stead, and the governor shall decide upon the removal of any of said commissioners or their successors on charges preferred by the directors of the corporation, after due hearing.

*So in the original.

PAR. 20. The sum of $10 upon each share of stock so subscribed for shall be paid to the commissioners attending at the time of making such subscription, which shall be held for the purpose of the corporation, and shall be paid to the directors for such purposes upon the election, as hereinafter provided; except in respect to such subscriptions as the commissioners shall have excluded, in which case the said sums so paid in respect to excluded subscriptions shall be returned by the commissioners to the person or persons who shall have paid the same.

PAR. 21. As soon as the sum of $300,000 in the capital stock shall have been duly subscribed, and the approbation of the commissioners shall have been obtained, they, or a majority of them, shall give two weeks' notice in two public newspapers published in the county of New York of a meeting of the stockholders to choose directors, and the said commissioners, or a majority of them, shall attend and shall preside at the first election, and such election shall be made at the time and place appointed by the commissioners in their notice by such of the stockholders as shall be present in person or by proxy, and the said commissioners so presiding shall under their hands certify the names of the directors so elected, and shall appoint the time and place of the first meeting of the board of directors; and at such first meeting, and as soon as a majority of the said directors shall be present, the commissioners shall deliver over the subscription money, books, and papers to the directors, whereupon the duties of the said commissioners shall cease, and they shall stand discharged of their duties under this act, except so far as pertains to the location of said bridge, appurtenances, and approaches thereto, and stations, or changing the same, and the approval of plans and dimensions of said bridge, appurtenances and approaches thereto, and stations as herein provided.

PAR. 22. The officers of the corporation hereby created shall consist of a president, vice-president, secretary, treasurer, and chief engineer, who shall be elected by the board of directors at their first meeting, and after every annual election of directors thereafter, of which board the president and vice-president shall be members, and such committees as may be appointed, as well as subordinate officers, and such security required from the officers as the said board of directors may deem necessary and proper.

PAR. 23. The directors of the corporation hereby created may issue full-paid stock for the purpose of purchasing property, both real and personal, necessary for the purposes of the corporation, to the amount of the value thereof, and may also issue full-paid stock for work, labor, and services performed, or materials furnished to said corporation for the uses and purposes thereof, to the amount of the value thereof, and the stock so issued shall not be liable to any further assessments, neither shall the holders thereof be liable for any other payments on such stock, under the provisions of this act, but in all statements and reports of the corporation hereby created, to be published, such stock shall not be stated or reported as being paid for in cash to the corporation, but shall be stated and reported according to the fact.

PAR. 24. The said bridge shall be constructed with a single span over the entire river between towers or piers, located between the shore and the existing pier-head lines in either State; and the bridge shall be constructed at an elevation of at least one hundred and forty-five feet in the clear above the level of the mean high water at the towers or piers of the bridge, and one hundred and fifty-five feet above the same level at the center of the main span, and these heights shall be exclusive of the deflection of the superstructure from loads or temperature effects; and no pier or tower or other obstruction of a permanent character shall be placed or built in the river between said towers or piers under this act. All other dimensions of said bridge, appurtenances and approaches thereto, and stations, shall be fixed and determined by the commissioners appointed under and named by the nineteenth section of this act, or their successors, or a majority thereof.

PAR. 25. From sunset to sunrise suitable signal lights shall be set and maintained upon said bridge to guide and direct approaching vessels.

PAR. 26. The terminus of said bridge in the city of New York shall not be below Tenth street nor above One Hundred and Eighty-first street, in said city.

PAR. 27. Said bridge shall be commenced on or before January first, eighteen hundred and ninety-two, and shall be completed and opened for use on or before January first, eighteen hundred and ninety-seven.

PAR. 28. This act shall take effect immediately.

STATE OF NEW YORK, *Office of the Secretary of State, ss:*

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

FRANK RICE,
Secretary of State.

The two acts of the State of New Jersey, which taken together your committee believes to convey sufficient State authority, are in these words, to wit:

[Laws of New Jersey. By authority.]

CHAPTER DXX.

AN ACT to incorporate the New York and New Jersey Bridge Company.

Be it enacted by the senate and general assembly of the State of New Jersey, That Rodman M. Price, Delos E. Culver, Nathaniel Dole, Augustus O. Evans, Noah D. Taylor, Henry C. Smith, Thomas B. Decker, Leon Abbett, J. Otto Seymour, John T. Dater, Cornelius Lydecker, Henry G. Hering, John Goldthrop, and John Hopper, be, and they are hereby, appointed commissioners on the part of this State, who, with commissioners to be appointed by the State of New York, shall be authorized to receive subscriptions to the capital stock hereby created, at such time or times, place or places as they or a majority of them may direct, giving notice thereof in a newspaper printed in the city of New York, and in the newspapers printed in the county of Hudson, in this State, for at least twenty days, of the time or times and place or places when and where the said subscriptions shall be received, and at the time of subscribing for the said stock five dollars ($5.00) shall be paid upon each share subscribed for to the commissioners or some one of them, which money shall be paid over to the treasurer of said company as soon as one shall be appointed, and that the residue of said subscriptions shall be paid in such installments, and at such times or places, and to such persons as the president and directors of the company shall from time to time direct, and give public notice of; and upon the failure of payment thereof, as so directed, for thirty days thereafter, the said president and directors shall have power to forfeit the shares of each and every person so failing to pay the said installments, or any of them, and for the use of said company, provided that the books of subscription shall be kept open for three days at least, and if the number of shares subscribed for shall exceed this amount, or number of shares authorized by this act to be subscribed for, that then the said commissioners shall apportion the said stock among such subscribers in proportion to the amount or number of shares by them subscribed as aforesaid.

2. *And be it enacted*, That the capital stock of said company shall be two millions of dollars, divided into shares of one hundred dollars each with the privilege to increase the same to five million dollars; and the said shares shall be deemed and considered personal property, and may be transferred in such manner as shall be prescribed by the by-laws of said company, and the said company shall have power to borrow money from time to time and to issue bonds to an amount not exceeding five million dollars, and to secure the payment of the same by mortgage of the property of the company or otherwise.

3. *And be it enacted*, That when ten thousand shares are subscribed for and paid up, the persons holding the same shall be and they hereby are incorporated into a company by the name of "The New York and New Jersey Bridge Company," and by that name shall have perpetual succession and all the privileges and franchises incident to a corporation and shall be capable of taking and holding their capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions in such manner and form as they shall think proper, if such enlargement should be found necessary to fulfill the intent of this act: *Provided*, Such increase does not, with the original subscription, exceed the amount of five millions of dollars.

4. *And be it enacted*, That when ten thousand shares of the said capital stock shall be subscribed and paid for as aforesaid, it shall be the duty of the commissioners to give notice in one or more of the newspapers printed in the city of New York, and in the newspapers printed in the county of Hudson, in this State, of the time of a meeting of the stockholders in Jersey City, in the county of Hudson, not less than thirty days from the time of issuing the said notice, at which time and place the said stockholders shall proceed to organize the said company, and shall choose by ballot thirteen directors who shall hold their offices until the second Tuesday of the month of May next succeeding the date of their election, and thereafter the stockholders shall meet on the second Tuesday of May in every year, at such place as shall be fixed by the by-laws of said company, and shall choose by ballot thirteen directors, who shall hold their office for the ensuing year, and each share shall be entitled to one vote, but if it should happen that an election of directors should not be held at the time so appointed for the holding thereof, or at the time appointed for the holding of any subsequent election, the said company shall not for that cause be deemed to be dissolved, and such election shall be held at such other time and place as the board for the time being

shall or may appoint, and the directors for the time being shall continue in office until new ones shall be elected in their stead, and every board of directors, as soon as conveniently may be after their election, shall appoint from their number a president, vice-president, a secretary and treasurer of said company, to serve until the then next annual election of directors, and until others shall be appointed in their stead, and the board of directors, or a majority of them, shall have the power to make, prescribe, and to alter such by-laws, rules, and regulations of said company as to them shall appear needful and proper and not contrary to the laws or constitution of this State, the State of New York, or of the United States, and shall have power to appoint such officers, clerks, and servants as to them shall seem necessary, and to establish and fix such salaries thereto as to them shall seem proper.

5. *And be it enacted*, That the said company shall have the power to erect, construct, and maintain a permanent bridge over the Hudson River, and construct and operate a railroad over the same between some suitable point in the city of New York and a point north of the southerly line of the township of Union, in the county of Hudson, in this State, and to lease, purchase, acquire, and hold as much real estate as may be necessary for the site of said bridge, and of all abutments, approaches, walls, toll-houses, and other structures proper to said bridge, and for the opening of suitable avenues to approach to said bridge, and shall also have power to build, erect, and construct a pier for the support of said bridge at the bulk-head line on each side of said Hudson River, and one or two piers in the river between such bulk-head lines with spaces between said piers of not less than one thousand feet each: *Provided*, That nothing in this act contained shall be construed to authorize, nor shall authorize, the construction of any bridge which shall obstruct the free and common navigation of the Hudson River, save as herein granted, and such bridge shall not be less than one hundred and thirty feet elevation above high tide at the middle of the river; it shall not obstruct any public road, street, or avenue which it shall cross, but such public road, street or avenue shall be opened by a suitable arch or suspended platform as shall give a suitable height for a passage under the same for all purposes of public travel and transportation; the said bridge shall be built with a substantial railing or siding, and shall be kept lighted through all hours of the night.

6. *And be it enacted*, That the board of directors shall have power to fix the rates of toll for persons, animals, carriages, and vehicles of every kind or description passing over the same; toll-gates shall be kept at each end of the bridge; the rate of toll shall be posted up conspicuously at the toll-gates; the said directors shall reduce the rates of toll from time to time, so that the net profits of said bridge shall not exceed the sum of fifteen per centum per annum, after deducting the expenses of repairs and improvements of said bridge, its appurtenances and approaches and all just and proper damages against the said corporation.

7. *And be it enacted*, That any person wilfully doing an injury to the said bridge or any of its appurtenances shall forfeit and pay to the said corporation three times the amount of such injury and shall be deemed guilty of a misdemeanor, and shall be subject to a penalty not exceeding five hundred dollars or to imprisonment not exceeding six months, in the discretion of the court.

8. *And be it enacted*, That the State of New York shall have jurisdiction of all crimes and offenses committed upon said bridge.

9. *And be it enacted*, That said company shall have power to procure the right of way and lands necessary to carry out the objects of this act, either by purchase or appraisement by commissioners in the manner prescribed in and by the original charter, or act of incorporation of the New Jersey Railroad and Transportation Company.

10. *And be it enacted*, That the construction of the said bridge shall be commenced within three years and shall be completed within five years from the time when this act shall take effect, or this act and all rights and priviledges granted thereby shall be null and void.

11. *And be it enacted*, That this act shall take effect when the legislature of the State of New York shall pass a law appointing commissioners on their part, and vesting like power and authority in the subscribers to the said capital stock of erecting the bridge as aforesaid, and with as full and ample powers, privileges, franchises, and emoluments, as to the said company are hereby given.

Approved April 17th, 1868.

With the amendment suggested above which prevents the erection of this bridge within one mile of any location which at the time of the passage of this act may have been selected by the North River Bridge Company under its charter, and with the following amendments:

(1) Amend the title by inserting after the word "authorize" in line 1, the word "the."

(2) Amend section 4 by striking out all after the word "approval" in line 3.

(3) Amend section 5 by inserting after the word "company," in line 1, the words "or companies."

(4) Amend section 6 by striking out the words "or the public good," in line 3, and by striking out the word "company" and inserting in lieu thereof the word "companies," in line 4.

And with the other provisions of the bill as stated therein, we believe that the erection of this bridge under the consent of Congress granted by this bill will be for the interest of the public.

We therefore recommend the passage of the bill as amended.

WAR DEPARTMENT,
Washington, December 30, 1891.

SIR: I return herewith S. 455, "to authorize the New York and New Jersey Bridge Company to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," referred to this Department on the 23d instant, and beg to invite your attention to the inclosed report, dated December 26, 1891, from the Chief of Engineers, and its accompanying copy of an amended bill, which expresses the views of the Department.

Very respectfully,

L. A. GRANT,
Acting Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON COMMERCE,
United States Senate.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., December 26, 1891.

SIR: I have the honor to acknowledge the reference to this office of letter of December 23 from the Senate Committee on Commerce, inclosing for views of the War Department thereon S. 455, Fifty-second Congress, first session, "A bill to authorize the New York and New Jersey Bridge Companies to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," and, in reply, I beg to recommend that the bill be amended as follows:

Section 1, in line 20, after the first word, add the following: "*Provided*, That such bridge shall be north of Sixty-sixth street prolonged across North River."

In line 23, after the word "with" insert "all," and after the word "railroads," insert "now built or hereafter to be built."

Section 2, in line 3, after the word "and" strike out "all the" and insert "the location and," and after the word "plans" strike out "and specifications."

In lines 4 and 5, strike out the words "to the Secretary of War," and after the word "approval," in line 5, insert "and until he approves the plans and location of said bridge the construction of the bridge shall not be begun."

At the end of line 8 add the following: "*Provided*, That plans satisfactory to the Secretary of War shall be submitted to him within one year after the passage of this act, and the construction of said bridge shall be begun within one year after the approval of the plans by the Secretary of War, and the structure shall be completed within ten years from the date of said approval, otherwise the provisions of this act shall be null and void."

Section 4, line 3, after the word "or" insert "other."

A copy of the bill with the proposed amendments indicated thereon is herewith submitted, and, as thus amended, I know of no objection to its passage by Congress so far as the interests of navigation are concerned.

The letter and its inclosures are herewith returned.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. L. A. GRANT,
Acting Secretary of War.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 16.

DISQUALIFICATION OF REGISTERS AND RECEIVERS OF THE UNITED STATES.

SEPTEMBER 20, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 2796.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2796) relating to the disqualification of registers and receivers of the United States land offices, and making provision in the case of such disqualification, has had the same under consideration and report it back with the recommendation that it pass.

The necessity of this legislation is apparent, and it is urgently requested by the Interior Department to meet cases now pending in some of the land offices.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 17.

SALE OF OLD PUBLIC BUILDING AT LOUISVILLE, KY.

SEPTEMBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BERRY, from the Committee on Public Buildings and Grounds, submitted the following

REPORT:

[To accompany H. R. 366.]

The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 366) providing for the sale of the old custom-house in the city of Louisville, Ky., submit the following report:

This bill provides for the sale of the building and grounds formerly occupied as a custom-house and post-office, but now vacant, the sale to be made by the Secretary of the Treasury and the proceeds to be turned into the United States Treasury.

Your committee have considered the bill, and report it back with the recommendation that it do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 18.

REPEAL OF FEDERAL ELECTION LAWS.

SEPTEMBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. TUCKER, from the Committee on Election of President and Vice-President and Representatives in Congress, submitted the following

REPORT:

[To accompany H. R. 2331.]

The Committee on Election of President and Vice-President and Representatives in Congress, to whom have been referred various House bills providing for the repeal of all statutes relating to supervisors of election and special deputy marshals at the polls, beg leave to report back to the House House bill No. 2331, with an amendment thereto, and to recommend its passage.

The bill provides for the repeal of section 2002 of the Revised Statutes of the United States relating to the bringing of armed troops to the place of election, and of sections 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, and 2020 relating to the appointment, qualifications, powers, duties, and compensation of supervisors of election; and also for the repeal of sections 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, and 2031 relating to the appointment, qualifications, powers, duties, and compensation of special deputy marshals.

Also for the repeal of sections 5506, 5511, 5512, 5513, 5514, 5515, 5520, 5521, 5522, and 5523 relating to crimes and their punishment; and also a part of section 643 as follows: "Or is commenced against any officer of the United States on account of any act done under the provisions of Title twenty-six, 'The Elective Franchise,' or on account of any right, title, or authority claimed by such officer or other person under any of the said provisions."

Section 2002 declares in effect that no military or naval officer shall bring any troops or armed men to the polls unless "it be necessary to repel the armed enemies of the United States or to keep the peace at the polls." This act was passed in February, 1865, during the war, and the object and purpose for which it was enacted must have long since passed away. Article IV, section 4, of the Constitution is as follows: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the Executive (when the legislature can not be convened) against domestic violence."

It is evident from this clause that the United States must guarantee to every State in the Union protection against "invasion." In order to do this it may be necessary for the Government to employ its army; but it is difficult to see, by any stretch of the imagination, for what purpose

the enemies of the United States would invade a polling precinct in any State in the Union. The "armed enemies" of the United States may at any time invade her soil and destroy the property of the people of the United States, and for the purpose of rapine and plunder may invade her borders, but it is difficult to see why the "armed enemies of the United States" should invade a polling precinct within a State. Where "domestic violence" has outrun State control, and the State government is unable to protect itself, this provision of the Constitution provides a direct and specific mode of action, on the application of the legislature of the State to the Government of the United States, or of the executive if the legislature can not be convened. "Domestic violence" may arise from a failure to keep the peace at the polls, and should such a state of things arise the remedy is plain.

But this section 2002 provides an extra constitutional mode of keeping the peace at the polls, in that it lodges an implied discretion *in the military or naval officer* of determining *when it is necessary* to repel the "armed enemies of the United States," or to "keep the peace at the polls,": whereas the determination of that question, under the Constitution, is left with the legislature of the State, or, where it can not be convened, with the Executive. Surely no officer of the Army or of the Navy should be left to determine *when* it is necessary to bring troops to the polls, and the Constitution has impliedly prohibited it in the provision just referred to. This section 2002 was a war measure. Twenty-eight years after it was enacted, and twenty-eight years after the cessation of hostilities, as the last vestige of war legislation on this subject, it should be wiped from the statute books forever.

The sections from 2005 up to and including 2020, relating to the appointment, qualification, powers, duties, and compensation of supervisors of election, and sections 2021 up to and including 2031, relating to the appointment, qualification, powers, duties, and compensation of special deputy marshals, and the remaining sections up to and including 5023, may all be considered together, as they embrace and constitute the same principle and kindred subjects.

The appointment of supervisors presumes *something* to supervise and the *right* of supervision. These sections relate to the right of supervisors and deputy marshals to supervise the election of Representatives in Congress; and the initial point, therefore, is as to the *right* of the United States to supervise the election of members of Congress, and if the right exists whether it is *proper* for them to do so.

This subject has been discussed before in Report No. 1882, part second, page 5, first session of the Fifty-first Congress, as follows:

"The power is sought in the fourth section of article 1 of the Constitution, which is as follows:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

We shall invoke the simple method of construction laid down by the writers, of seeking first, from the words themselves, their intrinsic meaning, and then invite the testimony of those who made them as to their meaning and their intent in making them, and, finally, the construction put upon them by Congress itself and recognized authors on the Constitution.

We notice, first, that "the times, places, and manner of holding elections, etc., is *primarily* confided to" the legislature of each State; *secondarily*, it is given to the Congress.

The language itself and the arrangement of the two clauses show this:

The times, places, and manner, etc., shall be prescribed by the legislature of each State.

But the Congress may, by law, at any time make or alter, etc.

The first is *original* and *primary*, the second is *permissive* and *contingent*. The legislatures and Congress can not both have original and primary power to act on the same subject at the same time. Such a conflict would never have been sanctioned. Nor can we believe that the men who draughted this section intended to distinguish it from every other in the Constitution in granting to two distinct and separate authorities co-equal power over the same subject at the same time. Nor can we conceive a greater absurdity than the grant of plenary power to the legislatures of the States in the first clause of the section, only to be abrogated and annulled in the second clause of the same section.

We can not believe that the intelligence which framed that great instrument, careful in avoiding any conflicts that would probably arise between the State and Federal authorities (for that hour was resonant with jealousies of power), deliberately placed this power into two distinct hands to be exercised, it may be, at the same time and in different ways; and it is equally improbable that the power given the legislatures of the States, as the authority best suited in the minds of the makers of the Constitution, to provide "the times, manner, and places of holding, etc.," was intended, without reason or cause, to be taken from them and arbitrarily assumed by Congress; and that, too, when there had been no failure on the parts of the States to provide the necessary machinery and no impropriety in the machinery provided.

We conclude, therefore, that the obvious and plain meaning of the section under discussion is that the legislature of each State should have the *primary* authority to prescribe "the times, places, and manner of holding elections, etc.," and that Congress should have such power *ultimately*. When? For what cause? What circumstances or conditions prevailing in the States shall be sufficient to cause a forfeiture of this right in the legislatures of each? This section and the Constitution are silent upon this subject; but the history of the adoption of the Constitution and the contemporaneous evidence of those who made it supply the answers.

Of the original thirteen States that framed the Constitution seven were outspoken on the subject, while in some of the others there was likewise a strong sentiment against the adoption of the Constitution containing this and other sections.

The language of some of them is most striking and instructive. On the 6th of February, 1788, Massachusetts, through her State convention, presided over by the great Revolutionary patriot, John Hancock, ratified the Constitution. In the report of ratification, after expressing the opinion that certain amendments should be made to "remove the fears and quiet the apprehension of many of the good people of this Commonwealth, and more effectually guard against an undue administration of the Federal Government," the following alteration of and provision to the Constitution is suggested:

That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases when a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations *subversive of the rights of* the people to a free and equal representation in Congress, agreeably to the Constitution.

Not satisfied with the mere suggestion of such amendment, and with a prophetic fear that, if such suggestions were not adopted by the first

Congress to assemble under the Constitution, some erring son of this ancient Commonwealth might some day waver in his support of those principles in the halls of Congress, the convention added this strong language:

And the convention do, in the name and in behalf of the people of this Commonwealth, enjoin it upon their Representatives in Congress *at all times*, until the alterations and provisions aforesaid have been considered agreeably to the fifth article of the said Constitution, to exert *all* their influence, and use *all reasonable and legal* methods to obtain a ratification of said alterations and provisions, in such manner as is provided in the said article.

South Carolina ratified on the 23d of May, 1788, with the following recommendation:

And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operation of a General Government that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature, should be forever inseparably annexed to the sovereignty of the several States: This convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the legislatures of the States shall refuse or neglect to perform and fulfill the same according to the tenor of the said Constitution.

New Hampshire ratified June 21, 1788, and made a recommendation in the same language used by the State of Massachusetts.

Virginia, on the 26th of June, 1788, ratified with a recommendation in the following words:

That Congress shall not alter, modify, or interfere in the times, places, and manner of holding elections for Senators and Representatives, or either of them, except when the legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same.

August 1st, 1788, North Carolina ratified, having held out against ratification on account of this and other objectionable clauses. The convention recommended an amendment in the same language as did the State of Virginia.

New York ratified July 26, 1788, and the recommendations of its convention are in some respects the strongest of any on this subject. Before the formal statement of ratification, a declaration of rights is set forth in which, among other provisions, we find:

That nothing contained in the said Constitution is to be construed to prevent the legislature of any State from passing laws at its discretion, from time to time, to divide such State into convenient districts and to apportion its Representatives to and amongst such districts.

Under these impressions and declaring that the rights aforesaid can not be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution, and in confidence that the amendments which shall have been proposed to the said Constitution will receive an early and mature consideration, we, the said delegates * * * do, by these presents, assent to and ratify the said Constitution.

In full confidence, nevertheless, that until a convention shall be called and convened for proposing amendments to the Constitution * * * that the Congress will not make or alter any regulations in this State respecting the times, places, and manner of holding elections for Senators or Representatives unless the legislature in this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same; and that in those cases such power will duly be exercised until the legislature of this State shall make provision in the premises.

And in accordance with this declaration the convention suggested an amendment to Congress embodying the above idea.

Rhode Island did not ratify until June 26, 1790, and the language of her convention on the subject and the amendments suggested were in almost the identical words of those of the State of New York, only stronger. The above extracts have been made that it might be seen

how strong was the feeling on this subject at the time of the ratification of the Constitution, and that the Constitution itself was only finally adopted in the faith and belief of a majority of the States that Congress would never exercise this power except when the States had failed to do so, or from any cause could not do so.

Not alone did the States above enumerated speak out with no uncertain sound, but in the debates in the Pennsylvania convention to ratify the Constitution, James Wilson, a member of the Federal convention that framed the Constitution, and a member of the State convention, explained this provision to mean in effect that the States were primarily to act, and Congress only in case of their failure to do so; and the convention recommended an amendment in the following words:

> That Congress shall not have power to make or alter regulations concerning the time, place, and manner of electing Senators and Representatives, except in case of neglect or refusal by the State to make regulations for the purpose; and then only for such time as such neglect or refusal shall continue.

In the fifty-eighth number of the Federalist Mr. Hamilton discusses this subject and says:

> They (the convention) have submitted the regulation of elections for the Federal Government, in the first instance, to the local administrations; which in ordinary cases, and when no improper views prevail may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever *extraordinary circumstances* might render that interposition necessary to its safety.

Judge Storey, in his Commentaries on the Constitution, Vol. 2, Chap. XI, discusses the whole subject and holds that the power will not be exercised by Congress unless "an extreme necessity or a very urgent exigency" should arise. (Secs. 820, 823, 824, *et seq.* See also 1 Tucker's Black. Comm. App., 191, 192; Curtis on the Constitution, 479, 480.)

We conclude, therefore, that Congress has the power to "prescribe the times, places, and manner of holding elections" for members of Congress, but that such power is *contingent* and *conditional* only, not *original* and *primary*.

Under what conditions or upon what contingency?

If we accept the evidence of the States in their State conventions, ratifying the Constitution, and that of the men who made the Constitution, the conditions are—

First. Where the States refuse to provide the necessary machinery for elections; and

Second. Where they are unable to do so for any cause, rebellion, etc.

Mr. Madison, in the Virginia convention, when asked his opinion of this section, said:

> It was found necessary to leave the regulation of these [times, places, and manner] in the first place to the State governments as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. * * * Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State legislatures, the Congressional control will very probably never be exercised.

Mr. John Jay, subsequently Chief Justice of the United States, in the New York convention said, when this clause was under discussion:

> That every government was imperfect unless it had a power of preserving itself. Suppose that by design or accident the States should *neglect to appoint the Representatives*, certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was that, if this neglect should take place, Congress should have power by law to support the Government and prevent the dissolution of the Union. He believed this was the design of the Federal convention.

Again, Mr. Madison says:

> This was meant to give the national legislature a power not only to alter the provisions of the States, but to make regulations in case the States should fail or refuse altogether. (Madison Papers, Vol. 3, 1282.)

Has any State refused to provide the necessary election machinery, or is any State unable to do so for any cause, or what "extraordinary circumstances," what "extreme necessity," what "urgent exigency" exists now for the exercise of this power by Congress? None has been suggested, and we confidently assert none can be.

For Congress to attempt to exercise this power now in this bill against the protests of a majority of the States that made the Constitution, and when those States only ratified it upon the faith and assurance that this and other powers would never be exercised except under certain conditions, which have not arisen, is a FRAUD upon the Constitution that should not be tolerated.

But, conceding for the moment that section 4, Article 1, gives to Congress the full powers claimed by the advocates of this bill, still it must be construed in the light of the subsequent section (8) of the same article, which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." Admit the power to be ample in the Constitution, yet the same authority limits the legislative branch of the Government in the enactment of laws, to such as shall be "necessary and proper" for carrying into execution the foregoing power. In Hepburn *vs.* Griswold, 8 Wall., 614, Chief Justice Chase, in defining these words, says the words

> Necessary and proper were intended to have a sense, to use the words of Justice Story, "at once admonitory and directory," and to require that the means used in the execution of an express power should be "bona fide appropriate to the end."

But again, the States for a hundred years and more have provided election laws, appointed officers for their proper execution, and provided the machinery of election. They have prescribed duties for such officers, and have imposed penalties for the failure to discharge these duties. This machinery and these officers, without distinction as to the character of the election, whether it be State or Federal, have the same duties imposed upon them in all essential qualities. With this state of things we find these statutes which are sought to be repealed create officers whose duties it shall be to supervise, scrutinize, and watch every act of the officers of the States. This of itself must create friction, and the history of the country since the enactment of these laws, has demonstrated their unwisdom in this respect. The power to guard, scrutinize, and inspect implies the power to *correct* or *prevent* that which is scrutinized. The power to supervise implies the power to *compel* the doing or to *prevent* the doing of the thing which is the subject of the supervision. How then can the United States, by its supervisors and deputy marshals, *supervise an election under a law which it has not enacted or scrutinize the registration (a condition of suffrage in many of the States) when the right of suffrage emanates from the State itself and the State alone can determine it?*

The second section of Article I of the Constitution declares: "The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

This leaves *the right* of suffrage and *the conditions* of suffrage in the States. By what authority, then, can a Federal officer, by challenge or otherwise at the polls or on registration day, determine the question of suffrage which the Constitution of the United States has left solely to the States to determine?

Many of these statutes also impose penalties upon the election officers of the States, in the conduct of elections, for a violation of the State laws. Was ever a more monstrous proposition written on the statute books of a free country? The power to make laws is a sovereign power. It carries with it the power to punish for the violation of such laws, but the two powers must be coördinate. The power that creates the law can inflict punishment for its violation, but no power can inflict punishment rightfully for the violation of a law which it never made. To attempt it, as has been done in the past, has resulted only in irritation, contention, and criticism of the government that has proposed it.

The object of legislation should be to prevent conflicts between the State and Federal authorities. These statutes have been fruitful in engendering them. Enacted in reconstruction times, when it was deemed necessary to carry out those measures, the purpose for which they were framed having happily passed away, we feel that they can not be too quickly erased from the statute books.

But we regard these statutes as chiefly inimical to the best interests of the people because they are in effect *a vote of lack of confidence* in the States of the Union. The inference is irresistible that they were enacted because of a lack of confidence in the honesty if not in the ability of the States to conduct their own elections. With such an intention plainly on their face, with what consideration could they be met by the people for whom they were intended except that of distrust and suspicion? Would the United States Government suffer less by the prevalence of fraud in elections than the States whose officers we sent to represent it in the Government of the United States? Is fraud in elections any less contemptible because it emanates from the people of the States without Federal interference? Or is it any less dangerous to the people of the States because it lacks Federal supervision?

Let every trace of the reconstruction measures be wiped from the statute books; let the States of this great Union understand that the elections are in their own hands, and if there be fraud, coercion, or force used they will be the first to feel it. Responding to a universal sentiment throughout the country for greater purity in elections many of our States have enacted laws to protect the voter and to purify the ballot. These, under the guidance of State officers, have worked efficiently, satisfactorily, and beneficently; and if these Federal statutes are repealed that sentiment will receive an impetus which, if the cause still exists, will carry such enactments in every State in the Union. In many of the great cities of the country and in some of the rural districts, under the force of these Federal statutes, personal rights have been taken from the citizens and they have been deprived of their liberty by arrest and imprisonment. To enter into the details in many cases where citizens have been unjustifiably arrested and deprived of their liberty would be useless in this report. We content ourselves in referring to Report No. 2365 of the second session of the Fifty-second Congress on this subject, where many such instances are detailed.

Finally, these statutes should be speedily repealed because they mix State and Federal authority and power in the control and regulation of

popular elections, thereby causing jealousy and friction between the two governments; because they have been used and will be used in the future as a part of the machinery of a political party to reward friends and destroy enemies; because under the practical operations of them the personal rights of citizens have been taken from them and justice and freedom denied them; because their enactment shows a distrust of the States, and their inability or indisposition to properly guard the elections, which, if ever true, has now happily passed away; and last, but not least, because their repeal will eliminate the judiciary from the political arena, and restore somewhat, we trust, the confidence of the people in the integrity and impartiality of the Federal tribunals.

A BILL TO REPEAL ALL STATUTES RELATING TO SUPERVISORS OF ELECTIONS AND SPECIAL DEPUTY MARSHALS, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sections and parts of sections of the Revised Statutes of the United States be, and the same are hereby, repealed; that is to say, of title "Elective franchise," sections twenty hundred and two, twenty hundred and five, twenty hundred and six, twenty hundred and seven, twenty hundred and eight, twenty hundred and nine, twenty hundred and ten, twenty hundred and eleven, twenty hundred and twelve, twenty hundred and thirteen, twenty hundred and fourteen, twenty hundred and fifteen, twenty hundred and sixteen, twenty hundred and seventeen, twenty hundred and eighteen, twenty hundred and nineteen, twenty hundred and twenty, relating to the appointment, qualification, power, duties, and compensation of supervisors of election; and also sections twenty hundred and twenty-one, twenty hundred and twenty-two, twenty hundred and twenty-three, twenty hundred and twenty-four, twenty hundred and twenty-five, twenty hundred and twenty-six, twenty hundred and twenty-seven, twenty hundred and twenty eight, twenty hundred and twenty-nine, twenty hundred and thirty, twenty hundred and thirty-one of same title, relating to the appointment, qualification, power, duties, and compensation of special deputies; and also of title "Crimes," sections fifty-five hundred and six, fifty-five hundred and eleven, fifty-five hundred and twelve, fifty-five hundred and thirteen, fifty-five hundred and fourteen, fifty-five hundred and fifteen, fifty-five hundred and twenty, fifty-five hundred and twenty-one, fifty-five hundred and twenty-two, [fifty] *fifty-five* hundred and twenty-three; *but the repeal of the sections hereinbefore mentioned shall not operate so as to affect any prosecutions now pending, if any, for a violation of any of the provisions of said sections;* and also part of section six hundred and forty-three, as follows:

"Or is commenced against any officer of the United States or other person on account of any act done under the provisions of title twenty-six, 'The Elective Franchise,' or on account of any right, title, or authority claimed by any officer or other person under any of said provisions."

SEC. 2. That all other statutes and part of statutes relating in any manner to supervisors of election and special deputy marshals be, and the same are hereby, repealed.

SEC. 3. That this act shall take effect from and after its passage.

MINORITY REPORT.

(To accompany H. R. 2231.)

Mr. JOHNSON, of North Dakota, submitted the following as the views of the minority:

There was no evidence taken before the committee.

Hence conclusions for or against the bill must be drawn from sources equally accessible to all members of Congress as to members of the committee. We of the minority have enjoyed no opportunity to see the report of the committee, and have no knowledge of its contents, except as we are informed in a general way that it will be favorable to the passage of the bill on two grounds: First, that the laws proposed to be repealed are unconstitutional; second, that they are inexpedient.

We find ourselves unable to agree with the conclusions reached by the majority, either on the grounds alluded to or for any other reasons that we have been able to discover.

For the convenience of members the sections of the Revised Statutes proposed to be repealed are here inserted, being only referred to by numbers in the bill itself.

SEC. 2002. No military or naval officer, or other person engaged in the civil, military, or naval service of the United States shall order, bring, keep, or have under his authority or control any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep peace at the polls. (See paragraphs 5528, 5529, 5532.)

SEC. 2005. When, under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are charged with the duty of furnishing to citizens an opportunity to perform such prerequisite, or to become qualified to vote, every such person and officer shall give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote.

SEC. 2006. Every person or officer charged with the duty specified in the preceding section, who refuses or knowingly omits to give full effect to that section, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2007. Whenever, under the authority of the constitution or laws of any State, or the laws of any Territory, any act is required to be done by a citizen as a prerequisite to qualify or entitle him to vote, the offer of such citizen to perform the act required to be done shall, if it fail to be carried into execution by reason of the wrongful act or omission of the person or officer charged with the duty of receiving or permitting such performance or offer to perform, or acting thereon, be deemed and held as a performance in law of such act; and the person so offering and failing to vote, and being otherwise qualified, shall be entitled to vote in the same manner and to the same extent as if he had in fact performed such act.

SEC. 2008. Every judge, inspector, or other officer of election whose duty it is to receive, count, certify, register, report, or give effect to the vote of such citizen, who wrongfully refuses or omits to receive, count, certify, register, report, or give effect to the vote of such citizen upon the presentation by him of his affidavit, stating such offer and the time and place thereof, and the name of the officer or person

whose duty it was to act thereon, and that he was wrongfully prevented by such person or officer from performing such act, shall forfeit the sum of five hundred dollars to the party aggrieved by such refusal or omission, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2009. Every officer or other person, having powers or duties of an official character to discharge under any of the provisions of this title, who by threats or any unlawful means hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall forfeit the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action on the case, with costs, and such allowance for counsel fees as the court may deem just.

SEC. 2010. Whenever any person is defeated or deprived of his election to any office except elector of President or Vice-President, Representative or Delegate in Congress, or member of a State legislature, by reason of the denial to any citizen who may offer to vote of the right to vote on account of race, color, or previous condition of servitude, his right to hold and enjoy such office and the emoluments thereof shall not be impaired by such denial; and the person so defeated or deprived may bring any appropriate suit or proceeding to recover possession of such office, and in cases where it appears that the sole question touching the title to such office arises out of the denial of the right to vote to citizens who so offered to vote on account of race, color, or previous condition of servitude, such suit or proceeding may be instituted in the circuit or district court of the United States of the circuit or district in which such person resides. And the circuit or district court shall have, concurrently with the State courts, jurisdiction thereof, so far as to determine the rights of the parties to such office by reason of the denial of the right guaranteed by the fifteenth article of amendment to the Constitution of the United States and secured herein. (See paragraphs 563, 629.)

SEC. 2011. Whenever, in any city or town having upward of twenty thousand inhabitants, there are two citizens thereof, or whenever, in any county or parish, in any Congressional district, there are ten citizens thereof, of good standing, who, prior to any registration of voters for an election for Representative or Delegate in the Congress of the United States, or prior to any election at which a Representative or Delegate in Congress is to be voted for, may make known, in writing, to the judge of the circuit court of the United States for the circuit wherein such city or town, county or parish, is situated, their desire to have such registration, or such election, or both, guarded and scrutinized, the judge, within not less than ten days prior to the registration, if one there be, or, if no registration be required, within not less than ten days prior to the election, shall open the circuit court at the most convenient point in the circuit.

SEC. 2012. The court, when so opened by the judge, shall proceed to appoint and commission, from day to day, and from time to time, and under the hand of the judge, and under the seal of the court, for each election district or voting precinct in such city or town, or for such election district or voting precinct in the Congressional district, as may have applied in the manner hereinbefore prescribed, and to revoke, change, or renew such appointment from time to time, two citizens, residents of the city or town, or of the election district or voting precinct in the county or parish, who shall be of different political parties, and able to read and write the English language, and who shall be known and designated as supervisors of election. (See paragraphs 5521, 5522.)

SEC. 2013. The circuit court, when opened by the judge as required in the two preceding sections, shall therefrom and thereafter, and up to and including the day following the day of election, be always open for the transaction of business under this title, and the powers and jurisdiction hereby granted and conferred shall be exercised as well in vacation as in term time; and a judge sitting at chambers shall have the same powers and jurisdiction, including the power of keeping order and of punishing any contempt of his authority, as when sitting in court.

SEC. 2014. Whenever, from any cause, the judge of the circuit court in any judicial circuit is unable to perform and discharge the duties herein imposed, he is required to select and assign to the performance thereof, in his place, such one of the judges of the district courts within his circuit as he may deem best; and upon such selection and assignment being made, the district judge so designated shall perform and discharge, in the place of the circuit judge, all the duties, powers, and obligations imposed and conferred upon the circuit judge by the provisions hereof.

SEC. 2015. The preceding section shall be construed to authorize each of the judges of the circuit courts of the United States to designate one or more of the judges of the district courts within his circuit to discharge the duties arising under this title.

SEC. 2016. The supervisors of election, so appointed, are authorized and required

to attend at all times and places fixed for the registration of voters, who, being registered, would be entitled to vote for a Representative or Delegate in Congress, and to challenge any person offering to register; to attend at all times and places when the names of registered voters may be marked for challenge, and to cause such names registered as they may deem proper to be so marked; to make, when required, the lists, or either of them, provided for in section two thousand and twenty-six, and verify the same; and upon any occasion, and at any time when in attendance upon the duty herein prescribed, to personally inspect and scrutinize such registry, and for purposes of identification to affix their signature to each page of the original list, and of each copy of any such list of registered voters, at such times, upon each day when any name may be received, entered, or registered, and in such manner as will, in their judgment, detect and expose the improper or wrongful removal therefrom, or addition thereto, of any names.

SEC. 2017. The supervisors of election are authorized and required to attend at all times and places for holding elections of Representatives or Delegates in Congress, and for counting the votes cast at such elections; to challenge any vote offered by any person whose legal qualifications the supervisors, or either of them, may doubt; to be and remain where the ballot boxes are kept at all times after the polls are open until every vote cast at such time and place has been counted, the canvass of all votes polled wholly completed, and the proper and requisite certificates or returns made, whether the certificates or returns be required under any law of the United States, or any State, Territorial, or municipal law, and to personally inspect and scrutinize, from time to time, and at all times, on the day of election, the manner in which the voting is done, and the way and method in which the poll books, registry lists, and tallys or checkbooks, whether the same are required by any law of the United States, or any State, Territorial, or municipal law, are kept.

SEC. 2018. To the end that each candidate for the office of Representative or Delegate in Congress may obtain the benefit of every vote for him cast, the supervisors of election are, and each of them is, required to personally scrutinize, count, and canvass each ballot in their election district or voting precinct cast, whatever may be the indorsement on the ballot, or in whatever box it may have been placed or be found; to make and forward to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as chief supervisor of the judicial district in which the city or town wherein they may serve, acts, such certificates and returns of all such ballots as such officer may direct and require, and to attach to the registry list, and any and all copies thereof, and to any certificate, statement, or return, whether the same, or any part or portion thereof, be required by any law of the United States, or of any State, territorial, or municipal law, any statement touching the truth or accuracy of the registry, or the truth or fairness of the election and canvass, which the supervisors of the election, or either of them, may desire to make or attach, or which should properly and honestly be made or attached, in order that the facts may become known.

SEC. 2019. The better to enable the supervisors of election to discharge their duties, they are authorized and directed, in their respective election districts or voting precincts, on the day of registration, on the day when registered voters may be marked to be challenged, and on the day of election, to take, occupy, and remain in such position, from time to time, whether before or behind the ballot boxes, as will, in their judgment, best enable them to see each person offering himself for registration or offering to vote, and as will best conduce to their scrutinizing the manner in which the registration or voting is being conducted; and at the closing of the polls for the reception of votes, they are required to place themselves in such position, in relation to the ballot boxes, for the purpose of engaging in the work of canvassing the ballots, as will enable them to fully perform the duties in respect to such canvass provided herein, and shall there remain until every duty in respect to such canvass, certificates, returns, and statements has been wholly completed. (See paragraph 5521.)

SEC. 2020. When in any election district or voting precinct in any city or town, for which there has been appointed supervisors of election for any election at which a Representative or Delegate in Congress is voted for, the supervisors of election are not allowed to exercise and discharge, fully and freely, and without bribery, solicitation, interference, hinderance, molestation, violence, or threats thereof, on the part of any person, all the duties, obligations and powers conferred upon them by law, the supervisors of election shall make prompt report, under oath, within ten days after the day of election to the officer who, in accordance with the provisions of section two thousand and twenty-five, has been designated as the chief supervisor of the judicial district in which the city or town wherein they served, acts, of the manner and means by which they were not so allowed to fully and freely exercise and discharge the duties and obligations required and imposed herein. And upon receiving any such report, the chief supervisor, acting both in such capacity and officially as a commissioner of the circuit court, shall forthwith examine into

all the facts; and he shall have power to subpœna and compel the attendance before him of any witness, and to administer oaths and take testimony in respect to the charges made; and, prior to the assembling of the Congress for which any such Representative or Delegate was voted for, he shall file with the clerk of the House of Representatives all the evidence by him taken, all information by him obtained, and all reports to him made. (See paragraph 5522.)

SEC. 2021. Whenever an election at which Representatives or Delegates in Congress are to be chosen is held in any city or town of twenty thousand inhabitants or upward, the marshal for the district in which the city or town is situated shall, on the application, in writing, of at least two citizens residing in such city or town, appoint special deputy marshals, whose duty it shall be, when required thereto, to aid and assist the supervisors of election in the verification of any list of persons who may have registered or voted; to attend in each election district or voting precinct at the times and places fixed for the registration of voters, and at all times or places when and where the registration may by law be scrutinized, and the names of registered voters be marked for challenge; and also to attend, at all times for holding elections, the polls in such district or precinct.

SEC. 2022. The marshal and his general deputies, and such special deputies, shall keep the peace, and support and protect the supervisors of election in the discharge of their duties, preserve order at such places of registration and at such polls, prevent fraudulent registration and fraudulent voting thereat, or fraudulent conduct on the part of any officer of election, and immediately either at the place of registration or polling place, or elsewhere, and either before or after registering or voting, to arrest and take into custody, with or without process, any person who commits or attempts or offers to commit any of the acts or offenses prohibited herein, or who commits any offense against the laws of the United States; but no person shall be arrested without process for any offense not committed in the presence of the marshal or his general or special deputies, or either of them, or of the supervisors of election, or either of them, and, for the purposes of arrest or the preservation of the peace, the supervisors of election shall, in the absence of the marshal's deputies, or if required to assist such deputies, have the same duties and powers as deputy marshals; nor shall any person, on the day of such election, be arrested without process for any offense committed on the day of registration. (See paragraphs 5521, 5522).

SEC. 2023. Whenever any arrest is made under any provision of this title, the person so arrested shall forthwith be brought before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

SEC. 2024. The marshal or his general deputies, or such special deputies as are thereto specially empowered by him, in writing, and under his hand and seal, whenever he or either or any of them is forcibly resisted in executing their duties under this title, or shall, by violence, threats, or menaces, be prevented from executing such duties, or from arresting any person who has committed any offense for which the marshal or his general or his special deputies are authorized to make such arrest, are, and each of them is, empowered to summon and call to his aid the bystanders or posse comitatus of his district.

SEC. 2025. The circuit courts of the United States for each judicial circuit shall name and appoint, on or before the first of May, in the year eighteen hundred and seventy-one, and thereafter as vacancies may from any cause arise, from among the circuit court commissioners for each judicial district in each judicial circuit, one of such officers, who shall be known for the duties required of him under this title as the chief supervisor of elections of the judicial district for which he is a commissioner, and shall, so long as faithful and capable, discharge the duties in this title imposed. (See paragraph 627.)

SEC. 2026. The chief supervisor shall prepare and furnish all necessary books, forms, blanks, and instructions for the use and direction of the supervisors of election in the several cities and towns in their respective districts; he shall receive the applications of all parties for appointment to such positions; upon the opening, as contemplated in section two thousand and twelve, of the circuit court for the judicial circuit in which the commissioner so designated acts, he shall present such applications to the judge thereof, and furnish information to him in respect to the appointment by the court of such supervisors of election; he shall require of the supervisors of election, when necessary, lists of the persons who may register and vote, or either, in their respective election districts, and cause the names of those upon any such list whose right to register or vote is honestly doubted to be verified by proper inquiry and examination at the respective places by them assigned as their residences; and he shall receive, preserve, and file all oaths of office of supervisors of election, and of all special deputy marshals appointed under the provisions of this Title, and all certificates, returns, reports, and records of every kind and nature con-

templated or made requisite by the provisionshere of, save where otherwise specially directed. (See par. 627.)

SEC. 2027. All United States marshals and commissioners who in any judicial district perform any duties under the preceding provisions relating to, concerning, or affecting the election of Representatives or Delegates in the Congress of the United States, from time to time, and, with all due diligence, shall forward to the chief supervisor in and for their judicial district, all complaints, examinations, and records pertaining thereto, and all oaths of office by them administered to any supervisor of election or special deputy marshal, in order that the same may be properly preserved and filed.

SEC. 2028. No person shall be appointed a supervisor of election or a deputy marshal under the preceding provisions, who is not, at the time of the appointment, a qualified voter of the city, town, county, parish, election district, or voting precinct in which his duties are to be performed.

SEC. 2029. The supervisors of election appointed for any county or parish in any Congressional district, at the instance of ten citizens, as provided in section two thousand and eleven, shall have no authority to make arrests or to perform other duties than to in the immediate presence of the officers holding the election, and to witness all their proceedings, including the counting of votes and the making of a return thereof.

SEC. 2030. Nothing in this title shall be construed to authorize the appointment of any marshals or deputy marshals in addition to those authorized by law prior to the tenth day of June, eighteen hundred and seventy-two.

SEC. 2031. There shall be allowed and paid to the chief supervisor for his services as such officer the following compensation, apart from and in excess of all fees allowed by law for the performance of any duty as circuit court commissioner: For filing and caring for every return, report, record, document, or other paper required to be filed by him under any of the preceding provisions, ten cents; for affixing a seal to any paper, record, report, or instrument, twenty cents; for entering and indexing the records of his office, fifteen cents per folio; and for arranging and transmitting to Congress, as provided for in section two thousand and twenty, any report, statement, record, return, or examination, for each folio, fifteen cents; and for any copy thereof, or of any paper on file, a like sum. And there shall be allowed and paid to each supervisor of election, and each special deputy marshal who is appointed and performs his duty under the preceding provisions, compensation at the rate of five dollars per day for each day he is actually on duty, not exceeding ten days; but no compensation shall be allowed in any case to supervisors of election, except to those appointed in cities or towns of twenty thousand or more inhabitants. And the fees of the chief supervisors shall be paid at the Treasury of the United States, such accounts to be made out, verified, examined, and certified as in the case of accounts of commissioners, save that the examination or certificate required may be made by either the circuit or district judge.

SEC. 5506. Every person who, by any unlawful means, hinders, delays, prevents, or obstructs, or combines and confederates with others to hinder, delay, prevent, or obstruct, any citizen from doing any act required to be done to qualify him to vote, or from voting at any election in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be fined not less than five hundred dollars, or be imprisoned not less than one month nor more than one year, or be punished by both such fine and imprisonment. (See paragraphs 2004-2010.)

SEC. 5511. If, at any election for Representative or Delegate in Congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious; or votes more than once at the same election for any candidate for the same office; or votes at a place where he may not be lawfully entitled to vote; or votes without having a lawful right to vote; or does any unlawful act to secure an opportunity to vote for himself, or any other person; or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any State, or of any Territory, from freely exercising the right of suffrage, or by any such means induces any voter to refuse to exercise such right, or compels, or induces, by any such means, any officer of an election in any such State or Territory to receive a vote from a person not legally qualified or entitled to vote; or interferes in any manner with any officer of such election in the discharge of his duties; or by any such means, or other unlawful means, induces any officer of an election or officer whose duty it is to ascertain, announce, or declare the result of any such election, or give or make any certificate, document, or evidence in relation thereto, to violate or refuse to comply with his duty or any law regulating the same; or knowingly receives the vote of any person not entitled to vote, or refuses to receive the vote of any person entitled to vote, or aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or

omit to do any duty the omission of which is hereby made a crime, or attempt to do so, he shall be punished by a fine of not more than five hundred dollars, or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution.

SEC. 5512. If at any registration of voters for an election for Representative or Delegate in the Congress of the United States, any person knowingly personates and registers, or attempts to register, in the name of any other person, whether living, dead, or fictitious, or fraudulently registers, or fraudulently attempts to register, not having a lawful right so to do; or does any unlawful act to secure registration for himself or any other person; or by force, threat, menace, intimidation, bribery, reward, or offer, or promise thereof, or other unlawful means, prevents or hinders any person having a lawful right to register from duly exercising such right; or compels or induces by any of such means, or other unlawful means, any officer of registration to admit to registration any person not legally entitled thereto, or interferes in any manner with any officer of registration in the discharge of his duties, or by any such means, or other unlawful means, induces any officer of registration to violate or refuse to comply with his duty or any law regulating the same; or if any such officer knowingly and wilfully registers as a voter any person not entitled to be registered, or refuses to so register any person entitled to be registered; or if any such officer or other person who has any duty to perform in relation to such registration or election, in ascertaining, announcing, or declaring the result thereof, or in giving or making any certificate, document, or evidence in relation thereto, knowingly neglects or refuses to perform any duty required by law, or violates any duty imposed by law, or does any act unauthorized by law relating to or affecting such registration or election, or the result thereof, or any certificate, document, or evidence in relation thereto, or if any person aids, counsels, procures, or advises any such voter, person, or officer to do any act hereby made a crime, or to omit any act the omission of which is hereby made a crime, every such person shall be punishable as prescribed in the preceding section.

SEC. 5513. Every registration made under the laws of any State or Territory, for any State or other election at which such Representative or Delegate in Congress may be chosen, shall be deemed to be a registration within the meaning of the preceding section, notwithstanding such registration is also made for the purposes of any State, Territorial, or municipal election.

SEC. 5514. Whenever the laws of any State or Territory require that the name of the candidate or person to be voted for as Representative or Delegate in Congress shall be printed, written, or contained on any ticket or ballot with the names of other candidates or persons to be voted for at the same election as State, Territorial, municipal or local officers, it shall be deemed sufficient prima-facie evidence to convict any person charged with voting, or offering to vote, unlawfully, under the provisions of a this chapter, to prove that the person so charged cast or offered to cast such ticket or ballot whereon the name of such Representative or Delegate might by law be printed, written, or contained, or that the person so charged committed any of the offenses denounced in this chapter with reference to such ticket or ballot.

SEC. 5515. Every officer of an election at which any Representative or Delegate in Congress is voted for, whether such officer of election be appointed or created by or under any law or authority of the United States, or by or under any State, Territorial, district, or municipal law or authority, who neglects or refuses to perform any duty in regard to such election required of him by any law of the United States, or of any State or Territory thereof; or who violates any duty so imposed; or who knowingly does any acts thereby unauthorized, with intent to affect any such election or the result thereof; or who fraudulently makes any false certificate of the result of such election in regard to such Representative or Delegate; or who withholds, conceals, or destroys any certificate of record so required by law respecting the election of any such Representative or Delegate; or who neglects or refuses to make and return such certificate as required by law; or who aids, counsels, procures, or advises any voter, person, or officer to do any act by this or any of the preceding sections made a crime, or to omit to do any duty the omission of which is by this or any of such sections made a crime, or attempts to do so, shall be punished as prescribed in section fifty-five hundred and (ten) (eleven). (See paragraph 5511.)

SEC. 5520. If two or more persons in any State or Territory conspire to prevent by force, intimidation, or threat any citizen who is lawfully entitled to vote from giving his support or advocacy, in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of the Congress of the United States, or to injure any citizen in person or property on account of such support or advocacy, each of such persons shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.

SEC. 5521. If any person be appointed a supervisor of election or a special deputy marshal under the provisions of title "the elective franchise," and has taken the oath of office as such supervisor of election or such special deputy marshal, and thereafter neglects or refuses, without good and lawful excuse, to perform and discharge fully the duties, obligations, and requirements of such office until the expiration of the term for which he was appointed, he shall not only be subject to removal from office with loss of all pay or emoluments, but shall be punished by imprisonment for not less than six months nor more than one year, or by a fine of not less than two hundred dollars and not more than five hundred dollars, or by both fine and imprisonment, and shall pay the costs of prosecution. (See paragraphs 2011, 2031.)

SEC. 5522. Every person, whether with or without any authority, power, or process, or pretended authority, power, or process, of any State, Territory, or municipality, who obstructs, hinders, assaults, or by bribery, solicitation, or otherwise, interferes with or prevents the supervisors of election, or either of them, in the performance of any duty required of them, or either of them, or which he or they, or either of them, may be authorized to perform by any law of the United States, in the execution or process or otherwise, or who by any of the means before mentioned hinders or perverts the free attendance and presence at such places of registration or at such polls of election, or full and free access and egress to and from any such place of registration or poll of election, or in going to and from any such place of registration or poll of election, or to and from any room where any such registration or election or canvass of votes, or of making any returns or certificates thereof, may be had, or who molests, interferes with, removes, or ejects from any such place of registration or poll of election, or of canvassing votes cast thereat, or of making returns or certificates thereof, any supervisor of election, the marshal, or his general or special deputies, or either of them; or who threatens, or attempts or offers so to do, or refuses or neglects to aid and assist any supervisor of election, or the marshal or his general or special deputies, or either of them, in the performance of his or their duties, when required by him or them, or either of them, to give such aid and assistance, shall be liable to instant arrest without process, and shall be punished by imprisonment not more than two years, or by a fine of not more than three thousand dollars, or by both such fine and imprisonment, and shall pay the cost of the prosecution.

SEC 5523. Every person who, during the progress of any verification of any list of the persons who may have registered or voted, which is had or made under any of the provisions of title "the elective franchise," refuses to answer or refrains from answering, or, answering, knowingly gives false information in respect to any inquiry lawfully made, shall be punishable by imprisonment for not more than thirty days, or by a fine of not more than one hundred dollars, or by both, and shall pay the costs of the prosecution. (See paragraphs 2016, 2026.)

And also part of section 643, as follows:

Or is commenced against any officer of the United States or other person on account of any act done under the provisions of title twenty-six, the elective franchise, or on account of any right, title, or authority claimed by any officer or other person under any of said provisions.

The effect of the proposed repeal of this portion of section 643 would be to prevent change of venue from State to Federal courts as to officers and persons designated.

The warrant for these sections, and all legislation of a similar character, is found in section 4, Article I, of the Constitution, as follows:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to places of choosing Senators.

On the question of constitutionality it is deemed unprofitable at this stage to draw out an argument from inward consciousness. As an *a priori* argument on constitutionality there is nothing better than contemporaneous interpretation as showing what meanings were attributed to the words by the framers of the Constitution themselves or those who were at that time charged with its immediate execution.

As an *a posteriori* argument a judicial determination by the Supreme Court is as near conclusive as anything human can be.

In discussing any proposed new law Supreme Court decisions thereon must necessarily be entirely wanting, as indeed may often be the case when the question is one of repeal, the law not having come under judicial review. Such is not the case here. During the twenty odd years since these laws were enacted their constitutionality has frequently been put to the test and always been sustained by the Supreme Court. We herewith submit the authorities on these two points. A motion made by Mr. Pinckney and Mr. Rutledge in the convention of 1787, August 9th, to strike out a much milder provision than the one finally adopted, according to Madison's notes, found no considerable support.

Mr. MADISON. The necessity of a general government supposes that the State legislatures will sometimes fail or refuse to consult the common interest at the expense of their local conveniences or prejudices. The policy of referring the appointment of the House of Representatives to the people and not to the legislatures of the States supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power. Whether the electors should vote by ballot or *viva voce;* should assemble at this place or that place; should be divided into districts or all meet at one place; should all vote for all the Representatives or all in a district vote for a number allotted to the district—these and many other points would depend on the legislatures, and might materially affect the appointments.

Whenever the State legislatures had a favorite measure to carry they would take care so to mold their regulations as to favor the candidates they wished to succeed. Besides, the inequality of the representation in the legislatures of particular States would produce a like inequality in their representation in the National Legislature, as it was presumable that the counties having the power in the former case would secure it to themselves in the latter. What danger could there be in giving a controlling power to the National Legislature? Of whom was it to consist? First, of a Senate to be chosen by the State legislatures. If the latter, therefore, could be trusted their representatives could not be dangerous.

Secondly, of Representatives elected by the same people who elect the State legislatures. Surely, then, if confidence is due to the latter it must be due to the former. It seemed as improper in principle, though it might be less inconvenient in practice, to give to the State legislatures this great authority over the election of the Representatives of the people in the General Legislature as it would be to give to the latter a like power over the election of their representatives in the State legislature.

Mr. KING. If this power be not given to the National Legislature their right of judging of the returns of their members may be frustrated. No probability has been suggested of its being abused by them. Although this scheme of erecting the General Government on the authority of the State legislatures has been fatal to the Federal establishment, it would seem as if many gentlemen still foster the dangerous idea.

Mr. Gouverneur Morris observed that the States might make false returns, and then make no provisions for new elections. (The Madison Papers, vol. 3, pp. 1,280, 1,281.)

Mr. George Ticknor Curtis, in the latest edition of his Constitutional History of the United States, which is, as everybody is aware, a work of very high authority and great research, says in regard to this clause:

This provision originated with the committee of detail; but as it was reported by them there was no other authority reserved to Congress itself than that of altering the regulations of the States, and this authority extended as well to the place of choosing the Senators as to all the other circumstances of the election. In the convention, however, the authority of Congress was extended beyond the alteration of State regulations, so as to embrace a power to make rules as well as to alter those made by the States. But the place of choosing the Senators was excepted altogether from this restraining authority and left to the States. Mr. Madison, in his minutes, adds the explanation that the power of Congress to make regulations was supplied in order to enable them to regulate the elections if the State should fail or refuse to do so. But the text of the Constitution as finally settled gives authority to Congress "at any time" to "make or alter such regulations;" and this would seem to confer a power which, when exercised, must be paramount, whether

a State regulation exists at the time or not. (Constitutional History of the United States, Vol. I, pp. 479, 480.)

We turn now from the opinions of that early day to actual decisions in our own time.

In the case of Siebold (*ex parte* Siebold, 100 U. S. R., 371), Mr. Justice Bradley delivering the opinion of the Court, Justices Clifford and Field dissenting, the following passages give the views of the Court upon this important power of Congress:

It seems to us that the natural sense of these words is the contrary of that assumed by the counsel of the petitioners.

After first authorizing the States to prescribe the regulations, it is added, the Congress may at any time, by law, make or alter such regulations. "Make or alter!" What is the plain meaning of these words? If not under the prepossession of some abstract theory of the relations between the State and National Governments, we should not have any difficulty in understanding them. There is no declaration by that the regulations shall be made either wholly by the State legislatures or wholly Congress. If Congress does not interfere, of course they may be made wholly by the State; but if it chooses to interfere, there is nothing in the words to prevent its doing so, either wholly or partially.

On the contrary, their necessary implication is that it may do either. It may either make the regulations or it may alter them. If it only alters, leaving, as manifest convenience requires, the general organization of the polls to the State, there results a necessary coöperation of the two Governments in regulating the subject. But no repugnance in the system of regulations can arise thence, for the power of Congress over the subject is paramount. It may be exercised as and when Congress sees fit to exercise it. When exercised, the action of Congress, so far as it extends and conflicts with the regulations of the State, necessarily supersedes them. This is implied in the power to "make or alter." (Pages 383, 384.)

So in the case of laws for regulating the elections of Representatives to Congress. The State may make regulations on the subject; Congress may make regulations on the same subject, or may alter or add to those already made. The paramount character of those made by Congress has the effect to supersede those made by the State so far as the two are inconsistent, and no further. There is no such conflict be, tween them as to prevent their forming a harmonious system perfectly capable of being administered and carried out as such. (Page 386.)

The objection that the laws and regulations, the violation of which is made punishable by the acts of Congress, are State laws and have not been adopted by Congress is no sufficient answer to the power of Congress to impose punishment. It is true that Congress has not deemed it necessary to interfere with the duties of the ordinary officers of election, but has been content to leave them as prescribed by State laws. It has only created additional sanctions for their performance, and provided means of supervision in order more effectually to secure such performance. The imposition of punishment implies a prohibition of the act punished. The State laws which Congress sees no occasion to alter, but which it allows to stand, are in effect adopted by Congress. It simply demands their fulfilment. Content to leave the laws as they are, it is not content with the means provided for their enforcement. It provides additional means for that purpose, and we think it is entirely within its constitutional power to do so. It is simply the exercise of the power to make additional regulation. (Pages 388, 389.)

The Supreme Court also discussed this clause of the Constitution still more fully in *Ex parte* Yarborough (110 U. S. R., 651), when Mr. Justice Miller delivered the opinion of the court and no dissent was noted:

That a government whose essential character is republican, whose executive head and legislative body are both elected, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the greatest consideration.

If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends from violence and corruption.

If it has not this power it is left helpless before the two great natural and historical enemies of all republics, open violence and insiduous corruption. (Pages 657, 658.)

Will it be denied that it is in the power of that body to provide laws for the proper conduct of those elections? To provide, if necessary, the officers who shall conduct them and make return of the result? And, especially, to provide in an election held under its own authority for security of life and limb to the voter while in the exercise of this function. Can it be doubted that Congress can by law protect the act of voting, the place where it is done, and the man who votes from personal violence or intimidation and the election itself from corruption and fraud?

If this be so, and it is not doubted, are such powers annulled because an election for State officers is held at the same time and place? Is it any less important that the election of members of Congress should be the free choice of all the electors because State officers are to be elected at the same time? (*Ex parte* Siebold, 100 U. S. R., 371.)

These questions answer themselves; and it is only because the Congress of the United States, through long habits and long years of forbearance, has, in deference and respect to the State, refrained from the exercise of these powers that they are now doubted.

But when, in the pursuance of a new demand for action, that body, as it did in the cases just enumerated, finds it necessary to make additional laws for the free, the pure, and the safe exercise of this right of voting they stand upon the same ground and are to be upheld for the same reasons. (Pages 661, 662.)

If this were conceded, the importance to the General Government of having the actual elections—the voting for those members—free from force and fraud is not diminished by the circumstance that the qualification of the voter is determined by the law of the State where he votes. It equally affects the Government; it is as indispensable to the proper discharge of the great function of legislating for that Government that those who are to control this legislation shall not owe their election to bribery or violence, whether the class of persons who shall vote is determined by the law of the State or by the law of the United States, or by their united result. (Page 663.)

If the Government of the United States has within its constitutional domain no authority to provide against these evils, if the very sources of power may be poisoned by corruption or controlled by violence and outrage without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it, are at the mercy of the combinations of those who respect no right but brute force, on the one hand, and unprincipled corruptionists on the other. (Page 667.)

The court in *Ex parte* Siebold also ruled very plainly in regard to the power of Congress under this clause of the Constitution to treat State officers conducting elections as officers of the United States—

It is objected that Congress has no power to enforce State laws or to punish State officers, and especially has no power to punish them for violating the laws of their own State. As a general proposition this is undoubtedly true, but when in the performance of their functions State officers are called to fulfill duties which they owe to the United States as well as to the State, has the former no means of compelling such fulfillment?

In view of the fact that Congress has plenary and paramount jurisdistion over the whole subject, it seems almost absurd to say that an officer who receives or has custody of the ballots given for a Representative owes no duty to the National Government which Congress can enforce, or that an officer who stuffs the ballot-box can not be made amenable to the United States. If Congress has not, prior to the passage of the present laws, imposed any penalties to prevent and punish frauds and violations of duty committed by officers of election it has been because the exigency has not been deemed sufficient to require it, and not because Congress has not the requisite power. (Pages 387, 388.)

They also decided that it conferred upon Congress the power to appoint officers of its own to act as police at the polls where a member of Congress is being chosen, for the preservation of order and for the protection of the electors in their right to freely and peaceably cast their ballots.

The counsel for the petitioners concede that Congress, if it sees fit, assume the entire control and regulation of the election of Representatives. This would necessarily involve the appointment of the places for holding the polls, the time for voting, and the officers for holding the election; it would require the regulation of the duties to be performed, the custody of the ballots, the mode of ascertaining the result, and every other matter relating to the subject. Is it possible that Congress could not, in that case, provide for keeping the peace at such elections, and for arresting and punishing those guilty of breaking it?

If it could not its power would be but a shadow and a name. But if Congress can do this where is the difference in principle in its making provision for securing the preservation of the peace, so as to give to every citizen his free right to vote without molestation or injury, when it assumes only to supervise the regulations made by the State, and not to supersede them entirely? In our judgment there is no difference; and if the power exists in the one case it exists in the other. (*Ex parte* Siebold, p. 396.)

The expediency of passing these laws in the first place, or now retaining them upon the statute books, opens up a large—indeed, a limitless—field for thought and discussion. In passing judgment as to the effect of any law a few relevant facts are more useful in enabling us to reach a just conclusion than a world of beautiful illustration. If we had a faithful picture of the condition of affairs in any given locality immediately before the enactment of these laws, and of the same locality after the machinery had been in operation a few years the comparisons and contrasts would be of great service. Fortunately two such pictures have been left upon the records of this House in the shape of reports of special committees, including the testimony by which the conclusions are supported. Both relate to elections in the city of New York. One by Hon. William Lawrence, of Ohio, February 23, 1869, and the other by Hon. S. S. Cox, of New York, March 3, 1877.

The mention of this particular locality is with all due respect and with no intention of leaving the inference or impression that offenses against the purity, and especially the freedom of the ballot, have not occurred elsewhere to as great an extent, especially when regard is had to population, wealth, concentration of power, greatness of the political prizes contended for, and especially the geographical location of New York city, whose situation is such as to enable offenders against State laws to escape from the territorial jurisdiction of the State in fifteen minutes.

We make a few extracts from each of these reports, first from that of Mr. Lawrence, whose bill was made the essential groundwork of the Federal election laws enacted in 1870.

In every country where popular suffrage has existed it has been found necessary to legislate against election frauds. (Citing statutes from Richard II to Victoria.)

The State of New York had been prolific in election frauds. (Citing official reports for 1838, 1845, 1857, and 1858.)

But appalling and startling as these have been in our past history, they are all surpassed in some respects by those perpetrated in the general election in the State, and especially in the city of New York, on the third of November, 1868. These frauds were the result of a systematic plan of gigantic proportion, stealthily arranged and boldly executed, not merely by bands of degraded desperadoes, but with the direct sanction, approval, or aid of many prominent officials or citizens of New York, with the shrewdly concealed connivance of others, and almost without an effort to discourage or prevent them by any of those in whose interests and political party associations they were successfully executed, who could not fail to have cognizance of them, and whose duty it was to expose, defeat, and punish them.

These frauds were so varied in character that they comprehended every known crime against the elective franchise. They corrupted the administration of justice, degraded the judiciary, defeated the execution of the laws, subverted for the time being in New York State the essential principles of popular government; robbed the people of that great State of their rightful choice of electors of President and Vice-President, of a governor, and other officers; disgraced the most prosperous city of the Union; encouraged the enemies of republican government here and elsewhere to deride our institutions as a failure, and endangered the peace of the Republic by an attempt to defeat the will of the people in the choice of their rulers.

The events of the past year in New York and the evidence taken by the committee furnish the proof of all these allegations. Among the most prominent of the frauds committed in the interest of the Democratic party in the city and State of New York in connection with the election in November, 1868, are these:

(1) Many thousands of aliens fraudulently procured, or were furnished, with certificates of naturalization illegally or fraudulently issued, by means of which they were enabled to register as voters and voted in violation of law.

(2) Many hundreds of certificates of naturalization were granted in the names of fictitious persons, to be used by native-born and naturalized citizens and aliens in falsely registering as voters, and to enable them to vote many times at the election.

(3) Many hundreds of persons in New York City voted from two to forty times, each under assumed or fictitious names fraudulently registered for the purpose.

(4) Extensive frauds were committed in canvassing tickets, and names of voters were entered on the poll lists, and Democratic tickets counted as if voters representing them voted, when no such persons voted at all.

(5) To accomplish these frauds gross neglect of duty and disregard of law so great as to evince a criminal purpose prevailed in some of the courts, while officers and Democratic partisans of almost every grade, either by official influence or otherwise, aided, sanctioned, or knew of and failed to prevent them. The same influences shielded the perpetrators in nearly all cases from detection or arrest, and when arrested they have, through the agency of judicial officers and others charged with the duty of prosecution, escaped all punishment.

(6) Through these agencies the Democratic electors of President and Vice-President and the Democratic candidate for governor of the State of New York were fraudently elected.

(7) And the investigations of the committee show that existing State laws and the mode of enforcing them are wholly inadequate to prevent these frauds, but that Congress has the power to enact laws which, if faithfully executed, will to some extent furnish remedies hereafter.

There is no law of Congress professing to prevent or punish frauds in voting or conducting elections, and the penalties relating to certificates of naturalization are by no means adequate.

The fact disclosed by the investigation of the committee that more than 25,000 fraudulent votes were cast in New York City in November and that the guilty parties who cast them are at large without fear of punishment proves that something must be done to prevent these frauds or elections will soon degenerate into a mockery or a sham. (Page 79.)

These frauds extended to other counties of the State as shown by the testimony and as demonstrated by the same tests applied to the city. (Page 63.)

In view of all the facts it is safe to estimate that the total fraudulent and illegal votes cast in the State of New York at the election in November, 1868, were not less than and probably exceeded 50,000 votes. (Page 64.)

Such was the last Presidential election conducted in New York City exclusively under State supervision.

Following close upon these events the law now in question was passed by Congress authorizing the appointment of Federal supervisors to observe and report upon naturalization, registration, and voting.

Eight years pass.

A committee of which the Hon. S. S. Cox is chairman is again charged with the duty of investigating a hotly contested Presidential election in the cities of New York, Brooklyn, Jersey City, and Philadelphia. His report and the evidence supporting the same was filed March 3, 1877. We submit the following extracts therefrom:

The committee take pleasure in commending the action of the United States officers, especially the supervisors of election in those cities, and the more especially because the Federal election law has not heretofore been administered with much satisfaction in those cities (Jersey City and Brooklyn).

The Federal officers seem, however, this year to have worked harmoniously, not only with the local organisms, but with each other.

CREDIT TO OFFICIALS.

Whatever may be said about the United States laws as to elections or their supervision by United States authority; whatever may be said as to the right of a State to regulate in all ways such elections, this must be said, that the administration of the law by Commissioners Davenport, Muirhead, and Allen, the United States functionaries, and their subordinates, was eminently just and wise, and conducive to a fair public expression in a Presidential year of unusual excitement and great temptation. The testimony of Mr. Davenport, the United States Commissioner for the southern district of New York, is a remarkable statement, which the committee would adopt as the basis of their report as to the three cities.

The name, the number of the house, the number of rooms or floors, and other descriptions as to nativity, color, length of residence in the assembly district, county, and State of the voter were promptly made. Naturalization was inquired

into and other qualifications, and if disqualified, why disqualified. Instructions were then issued and printed in the books delivered to the supervisors. They are found in the testimony of Mr. Davenport.

The same care was pursued in the cities adjacent to New York. There never was an election where such thorough preliminary preparation was required or had as to the registration, or as to the ballots, or the poll lists, tallies, check books, certificates, statements, and returns by the State and other officers.

No interference was allowed so as to defraud the honest voter of his right except in a few instances, and no fraudulent votes were given except on very rare occasions.

The instructions referred to went down to the remotest and smallest detail. The supervisor himself had the names before him who had before voted and who had not moved within two years. He knew all about every one of that class of voters, and checked them as correct in all such cases.

After deducting the names of those who had registered in the preceding two years and who had moved since 1872, he eliminated, with the aid of the list, from that time 90,000 names from a registry of 183,000. * * *

After causing a strict and vigilant examination to be made as to the names of those who were on the registry, another list was made and handed to the Federal supervisors.

These men were men of intelligence, required to be so by law, and better fitted than deputy marshals for a work of such importance and delicacy. This work was done a second time by men who went from house to house with the lists, for the age of the voter, his residence, and other matters, so as to identify him and estop fraud. Then the names of those who could not be found were marked. The two reports are then compared by the supervisor. Sometimes these reports have been made by different men.

These precautions were taken, it is said, so as to avoid the issuance of warrants on the simple statement of any one that the party did not reside at a house where he had sworn he did reside.

It was intended to provide not only against fraudulent votes, but that no person really entitled to a vote should be refused.

The political organizations concurred with Mr. Davenport in this arrangement. It proved a decided success, and the result was, what all who have any knowledge of this New York election have concurred in confirming, that there was comparatively no fraud, and the attempts made to repress it were welcomed by both parties and carried out in good faith.

A PATTERN FOR IMITATION.

The committee would commend to other portions of the country and to other cities this remarkable system, developed through the agency of both local and Federal authorities acting in harmony for an honest purpose.

In no portion of the world, and in no era of time, where there has been an expression of the popular will through the forms of law, has there ever been a more complete and thorough illustration of republican institutions.

Whatever may have been the previous habit or conduct of elections in those cities, or howsoever they may conduct themselves in the future, this election of 1876 will stand as a monument of what good faith, honest endeavor, legal forms, and just authority may do for the protection of the electoral franchise.

From the moment the supervisors were appointed, from the moment that the lists are purged, from the moment that the applications are examined, to the very last return of the popular expression, this election shows the calm mastery of prudence.

For this due credit should be given to men of both parties, and especially to the corporation counsel, Mr. Whitney, and United States supervisor.

Mr. Commissioner Davenport had maps of every house and building in the city. These maps were corrected regularly every thirty days.

You can not build a wing to your house, or change its number, or add to its stories or rooms, or change the character or quality of the dwelling without its being registered by the supervisor. * * *

Of course, mistakes here and there have occurred. Errors were made in consequence of mistakes of voters themselves, as to registering their residence, but those mistakes were, as far as could be, remedied; and it would be wrong to hold the system pursued by State and Federal officers responsible for a few flecks and specks.

Mr. Cox was for a whole generation a leader of Democracy in this chamber, the friend of the letter-carriers, of the Territories, and of all the defenseless who had a just cause to plead before the bar of the American Congress or people. His name has shed an enduring luster on literature and diplomacy as well as on his party and his country.

We are content to place his estimate of these laws and these men over against whatever evil may be spoken of them by those upon whom fortune has placed the task of endeavoring to stand in his shoes, though they are incapable of following in his footsteps. Inasmuch as the repeal of the Federal election laws must have the effect of relegating to State authorities the entire supervision of the election of President, Vice-President, and Members of Congress, excluding even the very mild form of observation—for that is about all it has amounted to—which has prevailed since 1870, a vote for this bill is equivalent to a vote in favor of the several State laws to which it commits *in toto* the election of these officers. It therefore becomes the duty of Congress before passing judgment on this bill to examine not only the sections of the Federal statutes which it is proposed to repeal, but also the State laws which are claimed by the majority to be not only sufficient but wise, just, and a patriotic substitute for those sought to be repealed. The purpose should be to secure *fair* and *free* elections. Unless these are had and the country knows them to be such, the whole Government is brought into merited disrepute.

It is a well-known fact that in recent years many and radical changes have been made in their elections laws in many of the States. In some of the eastern, middle, and western States these changes have consisted largely in the adoption of the Australian ballot system in a more or less modified form. This system, in its practical operation, has met the expectation of its friends, and its adoption works a most important advance in the cause of genuine ballot reform. In the other States, however, notably in those from whence hail the fiercest assailants of Federal supervision of Federal elections, no attempt has been made to secure purity or fairness of elections, and the plain effect of the changes there made, and they are radical, has been to obstruct and prevent a free ballot and a fair count. A long, persistent line of legislation by those States has and does place a premium upon fraud, works wholesale disfranchisement and a complete subversion of the popular will. Without enumerating or setting out in full all the State laws having this pernicious effect the minority deem it not without excuse, but justified by the plain dictates of duty, to call attention to a few of these laws which may serve as types of the large mass of legislation which members, we doubt not, will carefully investigate for themselves.

Whatever may have been the necessity for the enactment of Federal statutes supervising the elections in the large Northern cities, an added necessity has arisen, in the South, because of State laws and their operation. Through Kuklux violence in nearly all of the Southern communities the Democratic party gradually gained control of every branch of the State governments. The murders and assassinations committed have passed into history. Through these the State governments were seized; then came the enactment of the Southern force laws, by which usurped power is retained in all of the late Confederate States. Although there are still occasional instances of violence, this is no longer necessary because the laws are so framed that the Democrats can keep themselves in possession of the governments in every Southern State. The details of the laws of the various States differ, but the purpose of all is the same. The predominant design everywhere is, however, to keep from the people the choice of their inspectors or judges of elections.

In North Carolina the plan is to elect all of the justices of the peace for every county by the general assembly, and the practice is for the general assembly to elect the men whom the party bosses recommend.

Every two years these justices of the peace assemble in the various counties in convention and elect the county commissioners. Here, again, the recommendation of the party bosses who secured the election of the justices is all powerful. In this body all local power is deposited, whether the county votes for the Democracy or some other party. As an election approaches the county commissions first appoint registrars, whose duty it is to record the names of competent voters in the registration lists. Next, as the election day comes near, the county commissioners appoint four judges of elections two of whom, "*where possible*," shall be of different politics from the registrar. The result is that all the registrars of voters in every precinct of every county in the entire State are Democrats; a majority of every election board are likewise Democrats and all are creatures of party bosses who are responsible to no one. It is the rule for the county commissioners, in appointing the minority inspectors not to regard the wishes of the committees of the minority party, but to put in these important positions men incompetent by reason of illiteracy, or corrupt men, who may be bribed. Thus the election machinery of North Carolina is under the full control of the Democracy; and, as strange as it may appear, in the eastern or negro counties, according to the returns, the Democrats frequently poll their largest majorities.

To pass from North Carolina—Virginia has a different system, in detail, but the people have nothing to do with the appointment of election officers. The "electoral board law" prescribes that the general assembly shall elect for the counties an electoral board, and the board has the authority to appoint registrars and judges of election. "Whenever it is possible" the persons appointed as judges of election shall be chosen from persons known to belong to different parties.

South Carolina was the first State to enact unusual force laws. The governor appoints for each county a supervisor of registration, whose term of office continues two years. He also appoints two assistant supervisors, who sit with the supervisor, to pass upon the contested cases of registration. Certificates of registration are provided to the voters. Thirty days prior to any election the governor also appoints for each county three commissioners of election for State and county offices, and three other commissioners for the election of Presidential electors and members of Congress. This is intended to separate the State and Federal elections. These different commissioners, respectively, appoint for each polling place in the county, separate managers of election, three of each sort, for State and Federal ballotings. Other States, among them North Carolina, have adopted the South Carolina separation plan. It would require too much space to particularize every point. South Carolina originated the celebrated eight-box law, which has been adopted in Florida and perhaps other Southern States, though Florida in several respects has patterned after South Carolina. The purpose and effect of the eight-box system is to confuse illiterate voters.

What is the practical working of this system? How is it in fact operated?

Where this system is in vogue the officers to be elected are divided into as many groups as there are boxes. A separate ballot is required for each group of officers. In cases where the election officers deem it "proper" they assist the voter in depositing his several ballots in the appropriate boxes. Ballots placed in the wrong box are thrown out. It enables the election board, if party exigencies require, in the exercise of a so-called discretion, to extend correct aid only to voters of

their own party. It makes it very easy for a member of the board to make a mistake when aiding (?) a voter of the rival party. The mischief is accomplished when the ballot is placed in the wrong box. The voter is disfranchised. A majority at the polls is converted into a minority in the returns after the ballots placed in the wrong box have been thrown out.

There is no pretense, from beginning to end, that any of the election officers shall derive their powers directly from the people, or that any of them shall represent different political parties.

Florida borrows much from South Carolina. Under the constitution of 1885 in Florida a general election law was enacted and approved June 7, 1887. This statute was amended in 1889. The amendments are elaborate and intricate, and it is impracticable to explain them all. The purpose of the law is to draw the lines tighter and tighter. As a consequence of the Florida election enactments the Republicans put up no ticket and polled no vote in 1892, knowing that it would be useless. Like the other States mentioned, the power of appointment of the election officers comes from the central authority. The governor appoints a "supervisor of registration of electors," who holds the office two years. The supervisor appoints a registration officer for each election district.

The districts are made by the county commissioners, who are not elective, but are likewise appointed by the governor and have control of the local affairs of the counties. Florida improves upon South Carolina by inserting in the certificate issued to the voter his color and height. The county commissioners examine and purge the registration books each year. According to the act of 1887 the inspectors, "if practicable", shall be appointed from the two political parties. This provision is eliminated from the amendments of 1889, leaving Florida, in this respect, like South Carolina. Florida has the eight box system. An attempt was made in the legislature of Florida this year to revise its election laws, in the interest of fairness; but this was not agreed to and the bill was defeated, and the legislature has adjourned.

Mississippi has perhaps the most perfectly operating system for fraud yet devised in the South. By the census of 1890, the males of the voting age in that State numbered 271,080. The actual vote cast in 1892 was 52,809. Of this vote, Harrison received 1,406. This amazing result may be attributed to the force laws of Mississippi. The perfection of this plan consists in the registration, or rather nonregistration, of voters. The commissioners of elections are appointed by the lieutenant-governor and secretary of state. The inspectors of the election districts are appointed by the election commissioners, and are not to be all of the same political party, *if* suitable persons of different parties are to be had in the election district.

In 1890, in November, a new constitution was adopted in Mississippi. Section 244 of Article XII has become famous. Its provisions are that on and after the 1st day of January, 1892, every elector shall be able to read any section of the constitution of the State; or he shall be able to understand the same when read to him, or give a reasonable interpretation thereof. A registration shall be made before the next ensuing election after January the first, A. D. 1892.

The new registration was effectual, as we have seen. Under the old shot-gun system, which prevailed in 1888, the Republican total vote was 30,096. In 1892 it had fallen off to 1,406, a loss in four years of 29,690 votes to the Republican party. Of course the Republican vote

of 1888, as returned, was absurdly small, but in 1892 it was much smaller.

The convention adopted an election ordinance on the 1st of November, 1890; and the legislature of 1892 passed an act concerning registration and elections. Section 13 is in these words: "A person shall not be registered unless he be able to read any section of the constitution, or in case he cannot read, unless he be able to understand any section thereof when read to him, or give a reasonable interpretation thereof." The law is based upon Section 244 of the constitution already quoted. The elector who cannot read is put to a higher test than the one who can. It is easy to account for the Republican loss, as hereinbefore mentioned. The registrars are very conscientious (?) men, and they see to it that no man, not a constitutional lawyer, if a Republican, shall be admitted to the registration lists.

Other States besides Mississippi have enacted recent election statutes; among them Arkansas, Tennessee, and Alabama. The purpose of them all is the same. The methods are all alike; but in these recent enactments more particular attention has been paid to registration than in the older laws. This part of the statutes has been reduced to a fine art. The latest act is that of Alabama, passed this year. It is called the Sayre law. In Arkansas, Tennessee, and Alabama all power of appointment of election officers comes from central authority. There is no such thing as home rule in any of these States. The most significant feature of the new statutes, however, is the dependence of their framers upon each other's wisdom. They consult together and act in concert. No election has yet been held under the Sayre law of Alabama. Much is said about it in that State and it has been severely criticised. The criticisms induced its author to defend his statute, and in so doing he gave to the world some curious information. He said, in his article, that "at the time of the passage of the bill, and in the discussion attendant upon it, the registration feature was the feature selected for invective by the malcontents."

The registration officers, by the Sayre law, are appointed by the governor. Mr. Sayre said further:

> I applied to the secretary of state of Arkansas for information as to how the law worked there where it had been tried. The deputy secretary answered and said, among other things, "The law works smoothly, quietly, satisfactorily, beautifully, and I pray God every Southern State may soon have one like it. It neutralizes to a great extent the curse of the fifteenth amendment, the blackest crime of the nineteenth century."

So Alabama adopted the Arkansas plan. The lawmakers of one Southern State help those of another. Florida and North Carolina borrow from South Carolina, and Alabama from Arkansas and Tennessee. But no State seems yet to have approached Mississippi in ingenuity. In all of the States mentioned, and some others, however, the appointment of election officers is as far removed as possible from the people, and the entire control of everything connected with elections is in partisan hands.

In these States a highly complicated system has been evolved by which a partisan victory may be registered whenever desired without any reference to the intent or action of the voters at the polls. In this way the opponents of Federal supervision of elections obtain control and perpetuate their power. That these are facts is well known, as everyone knows who cares to inform himself. It is nowhere seriously denied. The secretary of the State of Arkansas from whom we have quoted is

not alone in his brazen attempt at justification. In the light of the administration of these State laws what becomes of the argument advanced by the majority that abuses have sprung up under the Federal laws? Even if it be granted that there is valid cause for complaint in the past, have we any assurance of better things under the State régime? True wisdom, it would seem, dictates that a system found defective be amended or replaced by a better not a worse one. Besides, with the Democratic party in full control of every department of the Government, there ought surely to be no further complaint on their part on the score of faulty administration.

The argument urged by the majority of danger growing out of possible conflicts between Federal and State authorities is neither novel nor sound. Even a fear of possible collision may be removed by fixing different dates for Federal and State elections. The majority in control not only in the nation, but in the States where the danger is feared, can easily make this change if the apprehension is real. But we beg to remind the majority that it is a cardinal doctrine of their party, no less than ours, that each department of our National Government is supreme in its own sphere, and to the judiciary is it given to construe laws, and the construction so given is binding on all loyal citizens until duly reversed.

In the Siebold case (pp. 386 and 387) the court say:

> As to the supposed conflict that may arise between the officers appointed by the State and National governments for superintending election, no more insuperable difficulty need arise than in the application of regulations adopted by each respectively. The regulations of Congress being *constitutionally paramount*, the duties imposed thereby upon the officers of the United States so far as they have respect to the same matters must necessarily be paramount to those to be performed by the officers of the State. If both can not be performed, the latter are *pro tanto* superseded and cease to be duties. If the power of Congress over the subject is supervisory and paramount, as we have seen it to be, and if officers or agents are created for carrying out these regulations, it follows as a necessary consequence that such officers and agents must have the requisite authority to act without obstruction or interference from the officers of the State. No greater subordination in kind or degree exists in this case than in any other. It exists to the same extent between the different officers appointed by the State when the State alone regulates the election. One officer can not interfere with the duties of another or obstruct or hinder him in the performance of them.
>
> Where there is a disposition to act harmoniously there is no danger of disturbance between those who have different duties to perform. When the rightful authority of the General Government is once conceded and acquiesced in the apprehended difficulties will disappear. Let a spirit of national as well as local patriotism once prevail, let unbounded jealousies cease, and we shall hear no more about the impossibility of harmonious action between the national and State governments in a matter in which they have a mutual interest.

The reasoning of this case appears to us conclusive, and while a possible conflict may occur wherever the authorities, national and State, touch each other, the fact remains there is no occasion for any such conflict, and it must be known that not only in the forum of law but in the arena of arms the fundamental principle that in this land Federal authority is supreme, is permanently established. The State authority must yield to national. This, at least, is settled beyond all legitimate discussion. There is no appeal.

But, it is urged, there are few convictions under the law in force. It will be found that in the aggregate there have been many convictions throughout the country for violation of Federal election laws. Even if in some localities the convictions for illegal voting have been few, and this seems to be a matter of special complaint on the part of the majority, it does not necessarily follow that the laws ought to be repealed. This simply indicates either that the laws are not energetic-

ally enforced or that they have practically prevented illegal voting. The latter assumption would seem correct from the fact that nearly all the 226 cases of arrest in New York City mentioned in the report of the special committee appointed by the last Congress were for illegal registration. If these laws had the effect of causing the arrest of the 226 persons for illegal registration at one election and in one city they probably deterred thousands more from attempting a like crime, and this may account for the scarcity of convictions for actual illegal voting.

That the alarm of friction between State and Federal authority growing out of Federal supervision of elections for Federal officers is largely imaginary is quite evident from the fact that no serious collisions have ever occurred. This appears very plainly from the report of the special committee appointed by the last Congress, in which they say:

> Since 1889 half a dozen persons have been charged with interfering with the Federal supervisors. * * * But even in these cases nobody has been convicted even of a technical violation of the law since 1889.

It must be borne in mind that the Federal election laws do not in any way interfere with State laws as to State elections, nor do the Federal supervisors assume the responsibility of enforcing either State or Federal laws at the polls, but are there simply to observe and report the facts when irregularities occur.

In view of the clear and full decisions of the Supreme Court, as set forth elsewhere in this report, it is deemed a work of supererogation to discuss the constitutionality of these laws conferring Federal authority to punish violators of State laws where such violations relate to elections of Federal officers. It is conceded that it costs money to maintain these safeguards of the ballot. The aggregate for the whole country seems large, but as yet we have not had pointed out to us the unreasonableness of any of the specific items. The supervision of these costs and the responsibility for the allowance of these bills may not be perfect, but they are as nearly so and exactly the same as supervision and allowance of the accounts of trustees, guardians, and administrators of trust funds as well as accounts for the enforcements of the revenue laws. Every item must be accompanied by a voucher, must be sworn to, must be submitted to the inspection of a district attorney, and must be approved or disapproved in open court by a Federal judge. If these safeguards are not sufficient it becomes our duty to amend the law in this regard. It furnishes no argument for repeal. A complex civilization is necessarily expensive, but is worth its cost.

The road along which the American people have toiled to their present high development has been long and laborious. The way back to barbarism is short and steep. If it is the determined policy of the party now charged with power and responsibility to journey on that backward road, the gateway is at hand, and is found in the overthrow of laws looking to the supervision of elections. Our industrial system seems marked for destruction next. The rest will be easy for those who are bent upon giving us an all round *cheap* civilization.

That the oppression or tyranny of our present election laws were not perceived before June 25, 1890, and that the fear of these laws has been since that date, and most tenderly nursed from very small beginnings to its present huge proportions by politicians in search of something on which they can harmonize as an issue and carry coming elections, is very evident from a description of the situation on that day by the Hon. Benton McMillin, of Tennessee, now a zealous advocate of repeal, and who then said in a speech on the Lodge bill: "Up to this good

hour the officers of the States, the citizens of the States control their own elections. When a member of Congress is elected the result is forwarded to the governor or secretary of state, the governor makes a certificate of his election to this House, and upon that he is seated in this House." (Record, first session, Fifty-first Congress, p. 7042.) The same picture of peace and tranquillity and some additional courageous hope for a bright and happy future for the South land is set forth in the following:

[From the New Orleans Times-Democrat of December 13, 1892.]

IMMIGRATION INTO THE SOUTH.

Now that the results of the general election have made it known beyond peradventure that there is a long period of quiet and prosperity in store for the Southern States, that will not be broken by the apprehension of force bills and fears of Senegambian supremacy, and such like Republican alarms, the South will have an opportunity of considering and adopting the best means for promoting the development of its resources, such as it probably never had before.

There is absolutely no cloud, not one even as big as a man's hand, on the horizon of Southern welfare. Business is in a thoroughly healthy condition; trade and commerce are prospering beyond precedent; everywhere the people have reason to be contented with present enjoyment, and to be hopeful of still further improvement for the future.

Political disturbances being relegated to the rear for a lengthened spell, nothing is in the way to prevent or to check a hitherto unparalleled expansion of the material resources of this most fertile and most highly favored section of the country. With a view to this development and expansion of the resources of the South, it behooves Southern people to take such concerted action as lies in their power as will redound to the collective and individual advantage of all the Southern States.

It will hardly be claimed that either the statesman or the editor of this leading paper were not advised in the premises, or that either would have failed to call attention to a giant evil then believed to have an existence. At this hour of the nation's peril, when the laborer, no longer "workworn," is anxiously searching, not for an increase of wages or an opportunity to better a condition until recently enjoyed, but fairly begging for a chance to earn a bare living; when capital is nervously seeking, not for new ventures or profitable employment, but to escape impending disaster—at such a time to hurl the brand of partisan discussion into this, which should be a careful, intelligent, conscientious, and patriotic examination of serious financial and economic conditions by a great legislative body, is an occasion for profound regret.

This discussion will light up no forges, will operate no mines, will set no spindles in motion, will bring neither food, raiment, nor hope to the needy. Our people all over this broad land are now heroically, with their whole strength, and with a judgment and temper truly commendable, as well as remarkable, battling with evils which are upon them; in this condition to place upon them this additional burden is, in the judgment of the minority, not only ill-advised but entirely without justification. We earnestly protest against it. The responsibility for precipitating this present struggle upon the country is with the majority, and them alone.

M. N. JOHNSON.
EUGENE J. HAINER.
A. MCDOWELL.
S. A. NORTHWAY.
N. M. CURTIS.

O

53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { REPORT No. 19.

CLERKS TO COMMITTEES.

SEPTEMBER 21, 1893.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

The Committee on Accounts, to whom was referred the resolution of the House (passed ont he 28th ultimc) authorizing and directing said committee to designate the committees of the House to which the clerks provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1894, should be allowed and assigned for the present Congress, and to report by resolution to the House for its action thereon, respectfully report that they have examined into and considered said matter and report to the House and recommend the passage of the following resolution, namely:

Resolved, That the thirty-six clerks to committees of the House during the session provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1894, be, and they are hereby, allowed and assigned for the present Congress to the following-named committees, namely:

To the Committee on Banking and Currency, a clerk.

To the Committee on Coinage, Weights, and Measures, a clerk.

To the Committee on the Territories, a clerk.

To the Committee on Railways and Canals, a clerk.

To the Committee on Manufactures, a clerk.

To the Committee on Mines and Mining, a clerk.

To the Committee on Pacific Railways, a clerk.

To the Committee on Levees and Improvement of the Mississippi River, a clerk.

To the Committee on Education, a clerk.

To the Committee on Labor, a clerk.

To the Committee on Militia, a clerk.

To the Committee on Patents, a clerk.

To the Committee on Invalid Pensions, two (assistant) clerks.

To the Committee on Pensions, a clerk.

To the Committee on Private Land Claims, a clerk.

To the Committee on Revision of the Laws, a clerk.

To the Committee on Expenditures in the State Department, a clerk.

To the Committee on Expenditures in the Treasury Department, a clerk.

To the Committee on Expenditures in the War Department, a clerk.

To the Committee on Expenditures in the Navy Department, a clerk.

To the Committee on Expenditures in the Post-Office Department, a clerk.

To the Committee on Expenditures in the Interior Department, a clerk.

To the Committee on Expenditures in the Department of Agriculture, a clerk.

To the Committee on Expenditures in the Department of Justice, a clerk.

To the Committee on Expenditures on Public Buildings, a clerk.

To the Committee on the Library, a clerk.

To the Committee on Printing, a clerk.

To the Committee on Enrolled Bills, a clerk.

To the Committee on Reform in the Civil Service, a clerk.

To the Committee on Mileage, a clerk.

To the Committee on Military Affairs, one (assistant) clerk.

To the Committee on Ventilation and Acoustics, a clerk.

To the Committee on Alcoholic Liquor Traffic, a clerk.

To the Committee on Immigration and Naturalization, a clerk.

To the Committee on the Election of President and Vice President, a clerk.

And Resolved, That the pay of the clerks to committees of the House of Representatives, which have been or may be hereafter authorized by the House, who are paid during the session only, shall begin from the time such clerks entered upon the discharge of their duties, which shall be ascertained and evidenced by the certificate of the chairmen of the several committees employing clerks for the session only.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 20.

ASSISTANT CLERK TO THE COMMITTEE ON CLAIMS.

SEPTEMBER 23, 1893.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

The Committee on Accounts, to whom was referred the accompanying resolution, submitted by Mr. Bunn on the 28th instant, respectfully report that the business of the Committee on Claims requires, as it has in previous Congresses, the employment of an assistant clerk.

Your committee therefore report said resolution with the recommendation that the same be adopted.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 21.

ADDITIONAL CLERK TO THE COMMITTEE ON NAVAL AFFAIRS.

SEPTEMBER 25, 1893.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

The Committee on Accounts, to whom was referred the resolution entitled "An additional session clerk for the Committee on Naval Affairs," have examined and considered the same, and report back to the House and recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 22.

DIGEST AND MANUAL OF RULES OF HOUSE OF REPRESENTATIVES.

SEPTEMBER 23, 1893.—Ordered to be printed.

Mr. RICHARDSON, of Tennessee, from the Committee on Printing, submitted the following

REPORT:

[To accompany Mis. Doc.]

The Committee on Printing have considered the House resolution to print 3,000 copies of the Digest and Manual of the Rules and Practice of the House, and report same with recommendation that it do pass. The estimated cost of same is $4,357.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 23.

SAFETY OF NATIONAL BANKS.

SEPTEMBER 23, 1893.—Ordered to be printed and recommitted to the committee.

Mr. COX, from the Committee on Banking and Currency, submitted the following

REPORT:

[To accompany H. R. 2344.]

The Committee on Banking and Currency, having had under consideration the bill (H. R. 2344) entitled "A bill for the better control of and to promote the safety of national banks," respectfully report:

The attention of the House is called to the fact that the Comptroller of the Currency in his report for the years ending October 31, 1891 and 1892, states that—

> In almost every instance [occurring in that year] an investigation of the affairs of an insolvent bank discloses the fact that the officers and directors have too freely used the funds of the association for their own purpose, either in a lawful or unlawful manner. The facility with which the active officers of a bank may borrow its funds seems to make it necessary that some added restriction should be placed upon transactions of this kind.
>
> It would be unwise to forbid an association to loan or to discount for its several directors, as they are usually selected from among the leading men in the various branches of business for the reason that they possess information which is of great value in passing upon paper offered by those engaged in some line of trade with themselves.

In the opinion of your committee the result sought to be reached, to wit, the preventing of the misappropriation of the funds of the bank by the officers actually engaged in the duty of handling them, can be accomplished by making it unlawful for them to borrow any money from the bank except after the making of the loan has been requested of and approved by the board of directors of the bank, or by the executive committee of such board, and by requiring that the Comptroller of the Currency shall be fully informed from time to time of the extent of such liabilities and of the persons to whom such loans are made.

It is believed that the mischiefs to be prevented have arisen mainly, if not entirely, in cases where the loans made to the directors, officers, and employés of the bank have been systematically concealed from the board of directors, and that there exists no case in which the majority of the board of directors have intentionally permitted any loans to or use of the moneys of the bank by its directors or officers in amounts sufficient to render the bank insolvent.

The purpose of the bill is not to prevent such loans, but to prevent there being any secrecy about the making of them. No adequate protection against such secrecy in the case of a director overdrawing his account has been devised, and therefore your committee have recommended that all such overdrafts shall be prohibited.

Your committee has not deemed it proper or expedient to recommend that this information should be included in the reports required to be published.

It is desirable that the very best and most active business men should be induced to become directors of these banks. Such men are at times borrowers to an extent which they would not willingly and perhaps could not prudently make public, although they may be entirely able to liquidate their indebtednesses as they become due.

In the opinion of your committee, if it should be required that the report published in the neighborhood of the bank should contain the information as to the extent of such loans, men actively engaged in business of the prudence and character desirable for bank directors could not be induced to become members of the board.

Your committee believe that the act as reported will correct the evil complained of, and that it goes as far as it is prudent in restricting the directors in availing themselves of accommodation from the banks, and that it particularly affords to the depositors and stockholders all the protection necessary for their interests without depriving them of the services of the men in each community best qualified and most useful as directors of the bank.

Your committee therefore recommend the passage of the bill.

VIEWS OF THE MINORITY.

The undersigned sympathizes with the objects of this bill as set forth in the report of the majority.

But, especially in its first section, the bill assumes and attempts to perform duties of a most minute and paternal character in matters of detail and formality as well as in those of substance.

Whatever of merit there may be in the procedure provided for the undersigned questions whether an attempt to regulate it by law to the extent contemplated will not result in serious embarassment as unforseen contingencies arise. Moreover, when it is recalled that the essential office of Federal law in reference to national banks is in connection with their circulating notes, and that this act is so exclusively for the protection of stockholders and depositors as to be based only upon incidental purposes and powers, it seems clear that the proposed extension of Federal interference with the banking business should not be enacted into law.

JOHN DE WITT WARNER.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 24.

DISQUALIFICATION OF JUDGES, ETC., IN CERTAIN CASES.

SEPTEMBER 23, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3131.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 3131) to disqualify justices, judges, and commissioners of the United States from sitting as courts or hearing certain cases, adopt the report of the Judiciary Committee thereon made at the first session of the Fifty-second Congress, in the following language:

The reasons of the committee are apparent on the face of the bill and the substitute.

It is highly creditable to our Federal judiciary that for one hundred years Congress did not find it necessary to pass any disqualifying statute. Our judges, with a praiseworthy sense of propriety, declined to try causes in which they were interested or related to either of the parties to the litigation; but of late years there have been cases wherein the judge, though related or interested, and objected to for that reason, proceeded to hear and determine such causes.

According to the stern morality of the common law the judge must be legally indifferent between the parties. The slightest pecuniary interest disqualifies him. Relationship within the fourth degree by the civil law unsettles that equipoise which justice demands from the bench; and relationship within that degree of affinity is frequently quite as strong as relationship by consanguinity. No judge ought to act in any case wherein he is thus related or interested, nor even in a case wherein his own skill, learning, or reputation as a lawyer may be in question. He should not sit nor act in any case in which he may reasonably be supposed to be biased in favor of or against either of the parties. The books of the common law are full of this doctrine. So, too, are the decisions of many courts of last resort. It requires this measure of disinterestedness and impartiality in the judge to secure the administration of evenhanded justice and to command the confidence and respect of the litigants and the public; and any judge or court whose perfect integrity and impartiality are seriously questioned had as well be discontinued or abolished, because his usefulness is thereby destroyed.

The bill provides that the disability may be waived by the parties.

The bill thus reported was passed by the House without amendment, but was never considered by the Senate.

The committee recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 25.

AMENDING SECTION 4430, REVISED STATUTES.

SEPTEMBER 23, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. WILLIAM A. STONE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 1920.]

The Committee on the Judiciary, having had under consideration he bill (H. R. 1920) entitled "A bill to amend section 4430, Title LII, of the Revised Statutes of the United States," respectfully report:

Section 4430, Title 52, of Revised Statutes of United States, reads as follows:

> Every iron or steel plate used in the construction of steamboat boilers, and which shall be subject to a tensile strain, shall be inspected in such manner as shall be prescribed by the Board of Supervising Inspectors and approved by the Secretary of the Treasury, so as to enable the inspectors to ascertain its tensile strength, homogeneousness, toughness, and ability to withstand the effect of repeated heating and cooling; and no iron or steel plate shall be used in the construction of such boilers which has not been inspected and approved under these rules.

Under the provisions of this statute as construed it is necessary to ship the boiler plates to the point where the boilers are to be built.

In practice, test pieces are then cut from the plates and tested by the nearest Government inspector.

These inspectors often have very little work of this character to do, and consequently are not very well versed in the proper methods of doing it.

Moreover, in a district where work of this character is light, the testing machines used are likely to be old style and not very accurate.

If, for any reason, a single plate is condemned, the entire work is retarded until a new one is made, delivered, and inspected.

These circumstances considered, it would seem to be to the interest of all parties concerned that the law be so changed as to permit of the tests of plates at the works of the manufacturer, hence the necessity for the passage of this act recommended by your committee herewith.

It has been submitted to Gen. Dumont, Supervising Inspector-General, and meets with his approval; it has also been submitted to a number of leading plate manufacturers of the country and has met with their approval.

Your committee can see no objection to the passage of the act, while they see every reason why it should be passed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 26.

SECTIONS 3480 AND 4716, REVISED STATUTES.

SEPTEMBER 23, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3130.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 3130) to repeal in part and to limit sections 3480 and 4716 of the Revised Statutes of the United States, adopt the following report, made thereon during the first session of the Fifty-second Congress:

The Committee on the Judiciary, having had under consideration H. R. 4548, find that the bill is intended to suspend the operation of sections 3480 and 4716 of the Revised Statutes of the United States in two classes of cases only.

Soon after the war between the States—usually called the war of the rebellion—began the names of all persons resident in the seceding States who were receiving pensions were dropped from the pension roll on account of their supposed disloyalty, as they were citizens and residents of territory over which the so-called rebellion extended. These former pensioners are now very few in number, and are from 70 to 90 years of age. Such of them as could make the quantum of proof required as to their loyalty have been restored to the pension roll, with back pay. Very few could make such proof, because one of these sections requires that the proof must establish open acts and affirmative declarations of loyalty during the war. They require proof of acts which, had they been performed nearly anywhere within the limits of the then Confederate government, would have almost certainly insured the imprisonment of anyone who thus manifested his loyalty. Some of these were Union men at heart, who were prudent enough to be quiet, and to say nothing. These are as unable to make the proof required by these sections as those who were disloyal; while others, classed as disloyal, were mere sympathizers with the Confederacy, or aided and assisted their sons or kindred who were in the army.

The bill proposes to relieve these of proof of affirmative acts of loyalty and to allow them, in their old age and decrepitude, to be restored to the pension rolls, but gives them no back pay.

The other class which this bill is intended to relieve from proof of loyalty consists of the soldiers of the Mexican war and Indian wars in respect to obtaining bounty lands, which was granted to them by acts of Congress in 1850 and in 1855, long before the war commenced. There were but few of these who failed to obtain their land warrants before the war commenced, but there were some in every Southern State. These grants were *in præsenti;* they vested rights which, though floats, when located on any of the public lands subject thereto, gave them precision and would have completed the title in the grantees. These rights were not confiscated by acts of rebellion, nor could Congress pass a law which would *proprio vigore* have that effect. It would have required a proceeding in court, and the sale of the land itself; and even then the title of the purchaser would continue only during the life of the rebellious owner. See the case of the heirs of Robert E. Lee *vs.* The United States, as to the Arlington estate.

These grants of bounty land were made in consideration of services rendered as soldiers by the grantees to the United States. At that time they were capable of taking—under no disability—and for subsequent acts it is not right to deprive them of the benefit of these grants.

The Supreme Court of the United States decided in Padelford's case (in 9 Wallace), and in Klein's case, and in Pargoud's case (both in 13 Wallace) that the proclama-

tion of amnesty and pardon issued by the President of the United States on the 25th day of December, 1868, relieved all persons, with the exceptions named therein, from any disability incurred by acts of disloyalty or rebellion, and when Congress tried to reverse this decision by a provision attached to an appropriation bill, denying to all persons the right to plead this proclamation of amnesty, the Supreme Court held the enactment to be void, because the President had the constitutional power to issue the proclamation, and that it completely wiped out the requirement of proof of loyalty, so that all citizens, whether they had been loyal or disloyal, were, by the proclamation, placed on the same footing before the courts of the United States. Notwithstanding these decisions of the highest judicial tribunal in the world, these sections are retained in the Revised Statutes, and are adhered to as rules of practice in the departments, thereby denying rights to people on account of disloyalty or the inability to prove loyalty affirmatively twenty-seven years after the close of the war, and many years after these decisions have been promulgated, the correctness of which nobody can question.

For these, among other reasons, your committee recommend the passage of the bill.

The bill passed the House without amendment in the Fifty-second Congress, but was not acted upon by the Senate.

Your committee recommend the passage of the bill for the same reasons which then existed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 27.

CONCORD AND BENNINGTON.

SEPTEMBER 23, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MONEY, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany H. R. 2084.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 2084) to remit the penalties on gunboat No. 3, the *Concord*, and gunboat No. 4, the *Bennington*, having had the same under consideration submit the following report.

A bill of this same character, and identical in its provisions, was considered by this committee during the Fifty-second Congress and favorably report as follows:

The Committee on Naval Affairs, to whom was referred the bill (H. R. 7648) to remit the time penalties exacted by the Secretary of the Navy from N. F. Palmer, jr., & Co., of New York city, in the construction of gunboat No. 3, known as the *Concord*, and gunboat No. 4, known as the *Bennington*, have had the same under consideration, and submit the following report thereon:

The contracts for building these vessels required that they should be completed and ready for delivery within eighteen months from the date of the contracts, and in case of failure in that respect that the contractors should be liable to the imposition of penalties for each day's delay.

In the case of the *Concord* the delay was sixty-five days and the penalties amounted to $3,250, and in the case of the *Bennington* there was a delay of ninety-two days and the penalties amounted to $5,350.

The bill having been referred to the Secretary of the Navy for a report on the facts, the Secretary, after a full statement of the case, says:

"While it was required by the contracts for the construction of the *Concord* and the *Bennington* that those vessels should be constructed of steel of domestic manufacture, the manufacture of steel of the requisite quality was, at the time of the execution of said contracts, but little understood in this country and but few companies were possessed of a plant adequate to its production, and as the construction of several other steel vessels had recently been contracted for by this Department with other firms the steel manufactories throughout the country were, during the period for which the contractors for the *Concord* and *Bennington* experienced delays in obtaining materials, as stated above, taxed beyond their capacity to supply, within the time limited therefor, materials for all of such vessels which would meet the requirements of the Department.

"This cause of delay, though it could not be considered by the Department as a basis for extending the time for the completion of said vessels, was due to circumstances beyond the control of the contractors, and the Government has sustained no loss by reason of the delay."

It appearing from the report of the Secretary that the delay for which the penalties were imposed "was due to circumstances beyond the control of the contractors, and that the Government has sustained no loss by reason of the delay," your committee report back the bill and recommend its passage.

Your committee concur in the conclusions stated in that report and report back the bill and recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 28.

CHARGES TO JURIES.

SEPTEMBER 23, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BOATNER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 1956.]

This bill is intended to require judges of the courts of the United States to conform to the laws of the several States in which they may be sitting in giving instructions to juries.

In many of the States judges are required to deliver instructions in writing when requested by either party, in order that there may be no dispute as to the instructions given and exceptions reserved to the same.

Your committee recommend its passage with the following amendment:

In line 4, after the word "sitting," insert the words "regulating the practice," so that the bill will read:

That the judges of the courts of the United States shall conform to the law of the State in which they may be sitting regulating the practice in giving instructions and delivering charges to juries in both civil and criminal cases.

O

53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { REPORT No. 29.

REFUND OF DUTIES ON GOODS REMAINING IN BONDED WAREHOUSES OCTOBER 6, 1890.

SEPTEMBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. HUTCHESON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 25.]

Your committee are of opinion that the policy of refunding duties as contemplated in this bill is not one to which the Government has heretofore committed itself, nor do they believe that such policy should now be inaugurated, and therefore recommend that the bill do not pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 30.

REMISSION OF THE DUTIES ON AMMUNITION FOR NAVAL ORDNANCE IMPORTED BY THE SECRETARY OF THE NAVY.

SEPTEMBER 23, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MCMILLIN, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. Res. 53.]

The Committee on Ways and Means submitted the following report:

The facts in the case are so fully set forth in a communication from the Secretary of the Navy to the chairman of the committee that your committee beg leave to copy it, with the accompanying memorandum of details from the estimates of the Bureau of Ordnance:

NAVY DEPARTMENT,
Washington, August 29, 1893.

SIR: In view of the relations subsisting between this Government and the government of Chile growing out of mistreatment of the crew of the U. S. S. *Baltimore* by a mob at Valparaiso in October, 1891, this Department found it necessary, early in 1892, to procure for the vessels of the Navy a larger quantity of armor-piercing shell and other ammunition than it was possible under any circumstances to obtain in the United States of domestic manufacture by the time within which it was expected that such ammunition might be required for active service, and in pursuance of the discretion vested in it by the acts making appropriations for ordnance and ordnance stores and supplies, and by the third section of the act making appropriations for the naval service, approved March 3, 1887, which provides that the material used in all naval structures provided for in said act and the armament for the same shall be, so far as practicable, of American production and furnished and manufactured in the United States, ordered from certain European manufacturers the following-described ammunition for naval ordnance, viz, ninety-six 10-inch Firth armor-piercing shell; sixty 12-inch Holtzer armor-piercing shell; two hundred 6-inch and two hundred 8-inch Holtzer armor-piercing shell, and five hundred and fifty 10 inch Hadfield common shell, the orders for said shell being placed by telegraph and cable messages in January, 1892.

The cost of the shell ordered as above stated was paid principally from the appropriations made by the acts approved August 3, 1886, and March 3, 1887, for the increase of the Navy, armor and armament, which appropriations had been, in accordance with the request of this Department, consolidated by the Secretary of the Treasury in order that the amounts appropriated by said acts might be expended in such a manner as to best subserve the interests of the Government in accordance with the purposes of those acts, the remainder of the cost being paid from the appropriations above referred to for ordnance and ordnance stores and supplies upon which there was no restriction as to the place of manufacture of the material purchased thereunder.

The amount available under the appropriations above mentioned for payment for the shells referred to was not sufficient to pay the duties on importations of that kind in addition to the cost thereof, and, inasmuch as there is no other appropriation from which the Department considers that the tariff duties on said shells can be paid, the shells are detained by the customs officials at New York and are now lying in bond at the navy-yard at that place.

I therefore inclose herewith a draft of a resolution providing for the remission of the duties on said shells, and have the honor to request that a measure be rec-

ommended by the committee for passage embodying the provisions thereof, in order that the shells in question may be distributed among those vessels of the Navy in service for which the same were procured.

Inclosed for the further information of the committee is a memorandum prepared by the Chief of the Bureau of Ordnance relative to the importation of said shells.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

Hon. WILLIAM L. WILSON,
Chairman Committee on Ways and Means, House of Representatives.

Memorandum of projectiles purchased abroad and referred to in the annual estimates of the Bureau of Ordnance for the fiscal year ending June 30, 1895.

Ninety-six 10-inch Firth armor-piercing shell, valued at $16,880.08, from Liverpool, per S. S. *Majestic* and *Arizona* and placed in bond at the navy-yard, New York, by permission of the Treasury Department.

Letter of the honorable Secretary of the Treasury to the Navy Department dated February 12, 1892.

Sixty 12-inch Holster armor-piercing shell, valued at $22,597.38, from Havre per S. S. *La Bretagne* and placed in bond at the navy-yard, New York, by permission of the Treasury Department.

Letter of the honorable Secretary of the Treasury to the Navy Department dated July 26, 1892.

Two hundred 6-inch Holster armor-piercing shell and two hundred 8-inch Holster armor-piercing shell, valued at $32,629.75, from Havre per S. S. *La Touraine* and placed in bond at the navy-yard, New York, by permission of the Treasury Department.

Letter of the honorable Secretary of the Treasury to the Navy Department dated June 29, 1892.

Five hundred and fifty 10-inch Hadfield common shell, valued at $37,663.20, from Liverpool, 300 per S. S. *Nomadic* and 250 per S. S. *Runic*, and placed in bond at the navy-yard, New York, by permission of the Treasury Department.

Letters of the honorable Secretary of the Treasury to the Navy Department dated November 3, 1892, and November 28, 1892.

The amount involved is $43,500.

To require the payment of these duties by an appropriation would result in unavoidable and unnecessary delay, to the embarrassment of the Navy Department, and would be so entirely a matter of bookkeeping on the part of the Government, profiting nothing, that your committee, believing the adoption of the resolution would relieve the situation, therefore recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 31.

SECTIONS 1790 AND 2693 OF THE REVISED STATUTES.

SEPTEMBER 25, 1893.—Laid on the table and ordered to be printed.

Mr. POWERS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 100.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 100) repealing sections 1790 and 2693 of the Revised Statutes, respectfully report that they have considered the same and are of opinion that the same ought not to pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 32.

VACANCIES IN THE OFFICE OF PRESIDENT AND VICE-PRESIDENT.

SEPTEMBER 25, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. POWERS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 2000.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 2000) entitled "A bill to amend the first paragraph of section 1, chapter 4, of the acts of the first session of the Forty-ninth Congress, relating to vacancies in the office of President and Vice-President," respectfully report that they have considered the same and are of opinion that the same ought to pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 33.

APPROVAL POSTMASTERS' BONDS.

SEPTEMBER 25, 1893.—Ordered to be printed.

Mr. HENDERSON, of North Carolina, from the Committee on the Post-Office and Post-Roads, submitted the following

REPORT:

[To accompany H. R. 2668.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 2668) authorizing the Fourth Assistant Postmaster-General to approve postmasters' bonds, have considered the same and recommend its passage.

O

EDWARD HURLEY.

SEPTEMBER 25, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLARK, of Missouri, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 903.]

The Committee on Claims, to whom was referred the bill (H. R. 903) for the relief of Edward Hurley, have considered the same and recommend that it do pass for the amount of the principal, the sum of $456.55.

Your committee had before it all the papers required to establish the justice and correctness of the claim covered by this bill. The facts that the paving of the street in front of the Government post-office building at Sedalia was properly and legally authorized by the authorities of said city, that claimant did the work in an acceptable manner, and that it remains unpaid for, as well as the amount due therefor, all appear by the "special tax bill" issued by the city of Sedalia, aforesaid, and attached hereto.

[City of Sedalia.]

SPECIAL TAX BILL.

This is to certify, that in pursuance of an ordinance of the city of Sedalia, Missouri, entitled "An ordinance providing for the paving of Second street from the east line of Missouri avenue east to the west line of Mill street," passed July 2nd, 1891, and approved July 2nd, 1891, as the same was amended by an ordinance of said city entitled "An ordinance to amend an ordinance entitled an ordinance providing for the paving of Second street from the east line of Missouri avenue east to the west line of Mill street," passed July 2nd, A. D. 1891, and approved July 2nd, 1891, by repealing sections 1 and 5 of said ordinance and enacting in lieu thereof two new sections to be known as section 1 and 5, respectively, and by amending section 4 of said ordinance, passed August 17th, 1891, and approved August 24th, 1891; and as further amended by an ordinance of said city entitled "An ordinance to amend an ordinance entitled an ordinance to amend an ordinance entitled an ordinance providing for the paving of Second street from the east line of Missouri avenue east to the west line of Mill street," passed July 2nd, 1891, and approved July 2nd, 1891, by repealing sections 1 and 5 of said ordinance and enacting in lieu thereof two new sections to be known as sections 1 and 5, respectively, and by amending section 4 of said ordinance passed August 17th, 1891, and approved August 24th, 1891, and to establish a grade on Second street between the east line of Missouri avenue and the east line of Mill street, passed August 31st, 1891, and approved September 1st, 1891, by which said first-mentioned ordinance as so amended it was provided that Second street in the said city be paved with brick on a concrete foundation; that the contract to do said paving was duly awarded to Gustave K. White and Edward Hurley at a cost of one dollar and seventy-eight ($1.78) cents per square yard; that said work has been completed and all material therein furnished by said White and Hurley; and the said

work has been received, approved, and accepted by the said city, through its mayor and council, by resolution duly passed March 24th, 1892.

And it appears, from the written calculation of the city engineer of said city, that the cost of said paving, under said contract and ordinance, as amended, is at the rate of $4\frac{1344}{10000}$ per front foot for every foot of property fronting or abutting on that portion of said Second street, between the east line of Missouri avenue and the east line of Mill street, being the same as provided by said ordinance as amended, and said contract, to be paved.

That the following described real estate, to wit: Lot 1, 2, and the west half of lot 3, block 47, original town of Sedalia, owned by the United States of America, and situated within the corporate limits of the city of Sedalia, county of Pettis and State of Missouri, and abutting on said portion of said street so paved, has been charged with the sum of four hundred and fifty-six dollars and fifty-five cents as a special tax, for said work done, and material furnished according to contract by said White and Hurley, contractors, to whom this tax bill is issued in payment thereof, and the sum mentioned has been duly assessed and apportioned against the aforesaid lot or land, being the exact amount chargeable against said lot or land, as provided by law, for its proportion of the cost of said work, and is a lien against said lot or land.

This tax bill bears interest at the rate of six (6) per cent per annum, after thirty days from date of issue and presentation, at which time this tax bill becomes due.

Given under our hand and seal of said city this 20th day of April, 1892.

[SEAL]

FREDK. PUTSCHER,
City Clerk of the City of Sedalia, Mo.

E. M. STEVENS,
Mayor of the City of Sedalia, Mo.

MERRITT YEATER,
City Engineer of the City of Sedalia, Mo.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 35.

MARY MATILDA FLANIGAN.

SEPTEMBER 25, 1893.—Laid on the table and ordered to be printed.

Mr. CLARK, of Missouri, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 680.]

The Committee on Claims, to whom was referred the bill (H. R. 903) for relief of Mary Matilda Flanigan, late widow of Moses Waters, deceased, have considered the same and recommend that it do not pass, for the good and sufficient reason that there is no provision of law for the payment of claims of this class.

The facts are these: Some years ago Moses Waters, the then husband of Mrs. Flanigan, built a stone post-tradership house on Government lands; he died, and his heirs, administrators, or executors had the legal right to move the buildings off the Government land, which they did not do.

Through some illegal process she was subsequently paid $5,000 by the Government and now asks for more. She has no right to it, and had none to the $5,000 hitherto paid.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 36.

CHRISTIAN KIENER.

SEPTEMBER 25, 1893.—Laid on the table and ordered to be printed.

Mr. CLARK, of Missouri, from the Committee on Claims, submitted the following

ADVERSE REPORT.

[To accompany petition.]

The Committee on Claims, to whom was referred the above entitled petition, report that in their judgment the petition and accompanying papers form no basis for any appropriation by Congress for relief of Christian Kiener.

The facts in brief are these: Either through his own ignorance or that of the register of the land office at Salt Lake City, he settled on and entered a certain quarter section on the reservation to form watershed for Fort Douglas. He made certain improvements thereon. He was ordered off the reservation and would not go. He was finally put off by United States marshal as the result of an ejectment suit.

The gist of his claim for damages in the sum of $15,000 is that the officers in ejecting him exceeded their authority, used unnecessary force, and brutally treated petitioner and his family and destroyed his personal property. If these facts are true he should proceed against the marshal and his bondsmen. He has ample remedy in an action at law. Let him pursue it. Congress should take no cognizance of his claim for relief.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 37.

PENNSYLVANIA WAR CLAIMS.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BELTZHOOVER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 286.]

The Committee on War Claims, to whom was referred the bill to authorize the payment to the State of Pennsylvania of damages sustained by citizens of the State of Pennsylvania from Union and Confederate troops during the late war, as adjudicated and liquidated by the State of Pennsylvania under the provisions of an act of the general assembly of the said State of Pennsylvania approved the 22d day of May, 1871, begs leave to submit the following report:

HISTORY OF THE CASE.

This bill is intended to provide for the payment of losses resulting mainly from three hostile expeditions that were made into Pennsylvania during the late civil war. The losses occurred in the counties of Adams, Bedford, Cumberland, Franklin, Fulton, Perry, Somerset, and York, all lying along the southern border of Pennsylvania, excepting Cumberland and Perry, which adjoin Franklin and Adams on the north.

The first expedition was made in 1862 by Gen. Stuart, principally in the two counties of Adams and Franklin. In 1863 occurred the great invasion of Pennsylvania by the army of Gen. Lee, whose operations culminated in his defeat at Gettysburg and retreat across the Potomac. In 1864 occurred the cavalry raids by the army of Gen. Early, who unexpectedly marched down the Shenandoah Valley.

On the 29th of July, 1864, the Confederate brigades of Johnson and McCausland, consisting of from 2,500 to 3,000 men, with six guns, crossed the Potomac and advanced upon Chambersburg, the county seat of Franklin County. The town was invested by the entire command of Johnson and McCausland, and a demand made upon the people for $100,000 in gold or $500,000 in Government funds as a ransom, a number of citizens being arrested and held as hostages for its payment. No offer of money was made by the people, and the town was burned by the Confederate forces.

The burning of Chambersburg occurred July 30, 1864, and resulted in a loss which was estimated by commissions appointed by two acts of assembly of Pennsylvania of 1868 and 1871.

The final adjudication, under the provisions of the act of 1871, of the claims for losses sustained in the burning of this town was $1,625,435.55. The total amount of the claims, including the losses by reason of the

burning of Chambersburg, as they were investigated and finally liquidated under the provisions of the act of 1871 is $3,450,565.45.

By far the larger portion of the claims presented by the State of Pennsylvania, and which this bill is intended to meet, was the result of the raids of 1864, upon the sudden advance of Gen. Early northward through the Shenandoah Valley.

The amount of damages inflicted by Stuart's raid in 1862, according to the findings of the commission appointed under the acts of assembly referred to, was $123,067.60.

The following is a statement of the amount of losses suffered by each county from the several invasions above mentioned.

Adams County		$485,900.71
Stuart's raid		3,538.28
		489,438.99
Franklin County	$726,503.98	
Stuart's raid	119,529.32	
Burning of Chambersburg	1,625,435.55	
		2,471,468.85
Cumberland County		211,778.95
Fulton County		6,808.03
York County		53,944.08
Somerset County		214,366.15
Do		120.00
Perry County		2,640.40
		3,450,565.45

All of the above were adjudicated under an act of assembly passed in 1868, and subsequently the same claims were reëxamined under the provisions of an act of assembly passed in 1871, somewhat reducing the amount of the findings under the earlier act of 1868.

The legislation of Pennsylvania upon the subject of these claims, the first legislative expression being before the close of the war, had always in view the liability of the General Government. This seems to have been the tenor of the language of the governor in his message in 1864 to the legislature assembled under a special call immediately after the burning of Chambersburg.

There was a repeated assertion on the part of the State of a claim for indemnity or reimbursement to its citizens for the extraordinary losses suffered in these several raids and invasions. The legislature, called in special session immediately after the burning of Chambersburg, made provision to the extent of the comparatively small sum of $100,000, which was distributed pro rata among the most destitute sufferers from the destruction of Chambersburg. This seems to have been a pure charity.

The next act was that of February 15, 1866 (P. L., 43), appropriating to the citizens of Chambersburg, on account of losses by reason of the burning of their town by Confederate troops, the sum of $500,000.

In that legislation the court of common pleas of the county in which the capital of the State is located was authorized to appoint three appraisers to make a just and true appraisement of the losses sustained by the people of Chambersburg and vicinity by reason of the burning of the town, and prescribed a method of procedure. The $500,000 was to be divided pro rata and receipted for by the sufferers whose claims might be allowed, which receipts were to "state the amount paid and authorize the State to receive from the General Government said sums out of any money which may hereafter be appropriated by Congress to compensate them for losses sustained by the war." Thus was early

asserted, in this act of 1866, by the reservation alluded to, the right to indemnity, and the payments by the State were made with the understanding expressed in the act that the State was not to be concluded by her action in this legislation, nor to be understood as relinquishing any right to insist upon these claims as against the United States or as assuming them herself.

In 1871 a further act was passed by the legislature of Pennsylvania appropriating $300,000 to the citizens of Chambersburg and vicinity whose claims for war damages had been adjudicated under the act of February 15, 1866. This was the act of May 27, 1871 (P. L., 223, sec. 67). This amount was appropriated in the shape of loan certificates to be issued to citizens of Chambersburg whose claims had been adjudicated, as already stated, to the amount of $300,000 pro rata to said claimants, $18,000 to pay interest on the certificates for the current year, the certificates to be redeemable in five years or sooner, at the option of the State, and upon the issue of said certificates to the claimants, respectively, the State to become the holder of said claims. The governor, by said act, was further authorized to demand the payment of the amounts theretofore paid, and thereby appropriated to said claimants, from the General Government, and to appoint agents for the purpose, etc. It was further provided that out of any moneys appropriated by the United States said certificates of loan shall be first redeemed, and any additional amount repaid to the State on account of advancement of said claims shall be appropriated pro rata, by the State treasurer, to the claimants in the border counties for war damages adjudicated under the several acts of assembly, except those adjudicated under the act of February 15, 1866.

The acts of assembly that were from time to time passed to investigate and perpetuate the evidence of these claims, and providing against fraud or speculation therein, are of a character that must commend themselves to the judgment of fair-minded men.

These claims have been adjusted and readjusted under conditions and methods of procedure which would seem to exclude all possibility of misrepresentation or imposition.

They were adjudicated for all the counties in which losses were incurred by the operations of the war, under the act of April 9, 1868 (P. L., 74), entitled "An act for the relief of the citizens of the counties of Adams, Franklin, Fulton, Bedford, York, Perry, and Cumberland, whose property was destroyed, damaged, or appropriated for the public service and in the common defense in the war to suppress the rebellion," which act provided for the appointment of commissioners to investigate and adjudicate the claims of the citizens of the said counties, and upon their adjudication to report and file the same with the auditor-general, and imposing the duty upon the proper officers of the Commonwealth, to be designated by the governor, to proceed to recover compensation for said losses from the General Government, and, when so collected, the amount recovered to be paid pro rata to the sufferers in accordance with the report of the commissioners thus appointed. Provision was therein made for the ascertainment and appraisement by the commissioners of the losses sustained, and an elaborate mode of procedure and method of verification and proof prescribed.

The matter was again brought before the legislature and the act of May 22, 1871 (P. L., 272), was passed. This was entitled "An act to authorize a liquidation of damages sustained by citizens of Pennsylvania during the late rebellion," and provided that the claims of the citizens of the counties of Adams, Bedford, Cumberland, Franklin, Perry,

and York for extraordinary losses sustained during the rebellion, as adjudictated under the prior acts, naming them, be subjected to a careful revision by two commissioners in each of the counties named, to be appointed by the president judges of the courts of common pleas of said several counties. There was this further provision:

And the governor shall appoint competent counsel to represent the Government in the revision of said claims before the several commissioners; and said commissioners shall reëxamine and readjudicate all of said claims, and may reject or diminish any now on file as equity may require, but not increase the amount of any, excepting the claim of the German Reformed Church (which was one claim which it was provided shall be equitably adjusted); and any claims which may have been assigned or transferred by the original claimant, the assignee or present owner of the same shall be required to make satisfactary proof of the amount actually paid for the claim; and the amount so paid shall be awarded and no more; and if any owner of an assigned claim shall fail to make such proof satisfactorily, the claim shall be rejected, and as said commissioners readjudicate said claim, they shall indorse their approval thereon for the amount allowed, and return the claims to the auditor-general.

This latter officer corresponds to the officer known as the comptroller or comptroller-general in some of the States.

These claims, as finally adjudicated under the last act, are on file in the auditor-general's office, excepting those which have been retained at Washington in order that they might not lose any right to have them allowed under the act of July 4, 1864.

Section 2 of the act provides:

The State shall issue to each claimant, or to his, her, or their representative, a certificate or certificates to the amount allowed on each claim, in the following form.

This is the form of the certificate:

This is to certify that ——— ——— has on file in the office of the auditor-general a duly approved and registered claim for the sum of ——— dollars, as adjudicated under the act entitled "An act to authorize the liquidation of damages sustained by citizens of Pennsylvania during the late rebellion," and payable only when said claims shall be paid by the United States Government.

These commissioners have reported and filed their reports and their findings, with proofs, in the auditor-general's office. The certificates have been nearly or quite all delivered to the holders.

Attention is called to the reservation contained in this certificate. These certifiates, signed by the governor and State treasurer and countersigned by the auditor-general, are the evidence in the hands of the holders, and contain the implied pledge of the State to secure the payment from the General Government of the claims so ascertained, whereby they may and do invoke the agency of the State to secure the final payment of the claims so ascertained and evidenced.

This last adjudication includes the losses that were sustained by reason of the burning of Chambersburg.

The following section of the act of 1871 sets forth the undertaking of the Commonwealth to secure, as far as it may, the enforcement of what has always been believed to be the obligation of the Federal Government:

SEC. 3. It shall be the duty of the governor of the State to demand the payment of said claims by the General Government, and also the payment of the amount heretofore paid by the State on said claims, and to appoint such agents for the purpose as may be deemed necessary, and any appropriation made by Congress to said claims shall be wholly applied to the certificates authorized by the second section of this act, as Congress may direct, until the same shall be paid in full: *Provided*, That this act shall not be construed to make the State in anywise responsible for or on account of said certificates.

These claims have been solemnly adjudicated, and there has been excluded any possible mistake, imposition, or fraud that might otherwise have been practiced upon either the State or the National Government. They were deliberately and carefully passed upon in an orderly proceeding in which the adverse interest was represented. In a great majority of cases these claims were presented by the claimants themselves without the intervention of counsel. The commissions were composed of men of high character in each of the counties named in the act, and, as already stated, the public interests were represented in a way that was in all respects analogous to that in which the General Government appears before the Court of Claims. The claims were thoroughly examined, the proofs and findings filed, and the whole is a matter of record in the office of the auditor-general of Pennsylvania. There has been special care exercised in these different proceedings to secure nothing against the General Government but what was justly due.

Shortly after the war of secession broke out Governor Curtin, under the authority of the State of Pennsylvania, organized the body spoken of as the Pennsylvania Reserves. This was done under an act of assembly entitled "An act to create a loan to provide for arming the State," approved 1861, which provided for the loan of $3,000,000 "to defray the expenses of organizing, arming, equipping, transferring, and supporting the military forces of this State now or hereafter to be called into the service in aid of the government of this State or of the United States."

It was provided by this act that the commander in chief, who was the governor, in connection with the officers composing the grand staff of the militia, were authorized to organize a military corps, to be called the Reserve Volunteer Corps of the Commonwealth, to be composed of thirteen regiments of infantry, one regiment of cavalry, and one regiment of light artillery; these regiments to be organized, armed, equipped, clothed, disciplined, governed, and officered, as similar troops in the service of the United States, and to be enlisted in the service of the State for a period not exceeding three years, or for the war, unless discharged, and were liable to be called into the service of the State at such times as the commander in chief might deem their services necessary for the purpose of suppressing insurrections or to repel invasions, with the further provisions that they were liable to be mustered into the service of the United States, as of course they were upon a requisition by the General Government, whether so expressed in the act or not.

Further provisions were contained in the said act for the establishment of camps of instruction and for the pay and rations of the said corps under the State authority.

Under that act the Pennsylvania Reserves were organized; they were put into camps of instruction and they constituted a standing army reasonably sufficient for the defense of the State against such raids and invasions of the enemy as then seemed likely to occur.

These troops, shortly after the disaster at Bull Run, in 1861, were suddenly called into the service of the United States Government, at a critical period, and were, until the close of the war, retained as part of the forces of the National Government operating in the field.

This corps, as provided in the act, was composed of thirteen regiments of infantry, one regiment of cavalry, and one regiment of light artillery. They were fully armed, equipped, and organized, as provided by the act. They were among the best soldiers raised by

the State, and, at the time they were suddenly called into the service of the Government, were in a high state of discipline and efficiency. Their splendid history justified the expectations had as to their ability to defend the State against anticipated invasion.

Both in 1862 and 1863, upon the occasions of the invasions that took place in those years, the militia of the State were called out by the governor. They were, of course, practically useless in the face of disciplined and veteran armies, and were inadequate to the protection of the State.

In 1862 the militia were called out because of the fears entertained of an invasion into the State by Lee, which, however, was thwarted by his repulse at Antietam. There were no forces in the State at the time of Stuart's raid, which took place in October, 1862, and the southern counties were entirely at the mercy of Stuart's troops.

There are certain special circumstances connected with the raid of 1864 and the burning of Chambersburg, which was its principal result, which it is proper to state.

On July 21, 1864, Governor Curtin, of Pennsylvania, and Governor Bradford, of Maryland, addressed a joint letter to the President, calling attention to the repeated raids across the Potomac River made by portions of the Confederate army, and proposing to enlist from their respective States a volunteer force sufficient, with the aid of such fortifications as might be speedily constructed, to guard the fords and protect the two States from these raids, and further asked that the recruits so raised be credited on the quotas of said States on the call last made, and that they be armed, equipped, and supplied as other volunteers in the service.

Attention is also called to the precedent in the early part of the war by which the importance of a special defense was recognized by the Government, and the governor of Maryland authorized to raise three regiments with a view to the protection of that portion of his State. These regiments were subsequently called into the service of the Government and so stated in the communication. The letter earnestly urged upon the President the importance of acceding to the suggestion made, and stated the purpose to immediately raise the forces required.

This letter was not answered until a day or two after the burning of Chambersburg, and then by a brief refusal to grant the authority asked.

At the time of the raid of McCausland and Johnson there were some seven regiments in the service of the State of Pennsylvania. These had been raised for border protection. They were sufficient to have coped with the invading force, which consisted of 2,500 to 3,000 men. A diversion having been made towards Washington by a portion of the Confederate troops, these regiments were called for for the protection of the capital. Three days after these troops were called to the Federal capital the town of Chambersburg was destroyed.

It might be mentioned that the region traversed by the invading forces was one of the richest and most inviting portions of the State, and the trend of the valleys leading to the State was such as to afford easy access and open avenues for retreat. The conditions were such as to suggest the likelihood of invasion and the importance of defensive measures.

It was pressed upon the attention of the committee that the State during the war had contributed to the armies of the Union, exclusive of militia and recruits for the Navy, under the several calls made upon her, a total of 362,284 men, being more than one-third of a million.

ARGUMENT.

The claim, provision for which is intended to be made by the accompanying bill, is presented by the State of Pennsylvania in her corporate and political capacity. The position of the State through her representatives, is that as a party to an express compact in the Federal Constitution there is guarantied to her a right to protection by the General Government against invasion, and impliedly a right to indemnity upon failure to afford such protection.

No case similar to the one now under consideration can be found. The cases are numerous where it has been held that a Government is not liable to its citizens for property destroyed in actual conflict by its own military authorities, or for property of the citizen destroyed by the enemy's forces. That doctrine has been so often asserted that if adjudicated cases are followed it is no longer the subject of dispute.

But this case does not fall within this rule, and for the following reasons:

First. Prior to the adoption of the Constitution there existed thirteen independent sovereign States, of which Pennsylvania was one.

Second. A Federal Government was created under the provisions of the Constitution, having jurisdiction over these States to the extent, and only to the extent, named in the Constitution; but the authority of the States remained; they continued to be independent of the Federal Government in all respects except as to the powers granted to the latter.

Third. One of the objects of the Constitution was to "insure domestic tranquility."

Fourth. The ratification of the Constitution was required of each State before the State became a part of this Federal Government. This ratification was by the State as an independent government. (See authorities cited in Paschal's Anno. Const., note 243.)

Fifth. The right of a State to have a militia was recognized; but by Article II, section 8, clause 15, power was given to Congress to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. And by section 2 of same article the President is made commander in chief of the militia of the several States when called into actual service: but the right is reserved to the States to appoint the officers of, and to train the militia, according to the discipline prescribed by Congress.

Sixth. In consideration of the grant by the States to the Federal Government of the powers enumerated in the Constitution it was stipulated in section 4, Article IV, that "the United States shall protect each of them (the States) against invasion."

Seventh. The guaranty to protect each State against invasion was one of supreme importance to the States, and especially in view of the fact that the State had conceded to this new nation, into which it entered, the power to control its militia in all respects, except the officering and training. And when the Federal Government fails to protect a State against invasion, and by reason thereof injuries have been sustained, a very different question is presented from such as we have above mentioned, to wit, in claims made by private citizens for injuries by the Federal forces in actual conflict, or injuries inflicted by the enemy on such individual citizens.

The present claim now under consideration is presented by the State of Pennsylvania, one of the States that entered into and became a part of this new nation, and party to this covenant for protection against

invasion upon the terms already mentioned. It is, therefore, a claim that does not, as we submit, fall within the rule so often quoted.

Eighth. The Constitution does not provide what shall follow as the result of a failure to "protect against invasion," and now, as we think, for the first time Congress is brought to the consideration of that question.

The obligation existed to protect, and there must be, in the highest political sense, if not in a sense justiceable in the court, a consequent and resulting liability or obligation, upon failure to so protect. Whatever is necessary or proper to compensate for that failure is the discharge of an obligation, and not the dispensation of a bounty.

Each State before the Constitution had the power to create and control its own army for the defense of its territory, its property, its citizens, and their property; but this military power was surrendered to the Federal Government upon the guaranty of the latter that it would do what might have been done by the State but for the entering into this new relation; and it would, therefore, seem to conclusively follow that if there was loss of property by reason of failure to keep this guaranty compensation should be made for that loss.

The next question is, was there an "invasion" in the sense of the Constitution?

This is answered by the Supreme Court of the United States, in the case of Pacific Railroad *vs.* The United States (120 U. S. R., 227), in these words:

> It has been held by this court in repeated instances that, though the late war was not between independent nations, yet, as it was between the people of different sections of the country, and the insurgents were so thoroughly organized and formidable as to necessitate their recognition as belligerents, the usual incidents of a war between independent nations ensued. The rules of war as recognized by the public law of civilized nations became applicable to the contending forces. Their adoption was seen in the exchange of prisoners, the release of officers on parole, the recognition of flags of truce, and other arrangements designed to mitigate the rigors of warfare. The inhabitants of the Confederate States on the one hand, and of the States which adhered to the Union on the other, became enemies and subject to be treated as such, without regard to their individual opinions or dispositions, while during its continuance commercial intercourse between them was forbidden, contracts between them were suspended, and the courts of each were closed to the citizens of the other. (Brown *vs.* Hiatts, 15 Wall., 177, 184.)

In the light of this it can not be doubted that the entering upon the soil of the State of Pennsylvania by the Confederate forces for hostile purposes was an "invasion" against which the United States had guaranteed that State protection.

The duties to keep this guaranty and to make compensation for failure is emphasized by the facts of this case already recited, and of which the following is a brief summary:

The State of Pennsylvania responded to every call of the Government for the common defense. Her quota of troops was never unfilled. There was no duty she did not perform in common with her sister nonseceding States for the maintenance of the authority of the Federal Government. But she was situated on the border, and in addition to responding as above stated, and notwithstanding that she had the right to expect that the Government would prevent the enemy from entering upon her territory, she organized in addition militia of her own to repel any attempted invasion. She took every precaution against such a calamity. These forces were organized, drilled, armed, and equipped at the expense of the State, and stationed to protect against the very invasion and injuries for which she now presents this claim.

But there was imminent danger to the entire country of incalculably greater loss. The capital of the nation was threatened. Its vast property interests at the seat of Government, its Treasury, its archives, its very existence as a government—all were in the greatest peril, and in this crisis, under the Constitution, the President called this force, organized to protect the State, to the higher duty of protecting the nation. The call was responded to by the withdrawal of said reserved militia raised by the State, and that withdrawal left the State defenseless and this injury followed.

It is impossible to make a stronger case than this for asking compensation under this guaranteed protection.

If this does not make a case, then this guaranty might better have never been written. It is only a delusion and a snare if no obligation follows a failure, because no one can read the Articles of Confederation and the history of the times without being impressed that this Constitution whereby the control of the militia was surrendered, and the power to protect against invasion yielded to the Federal Government, never would have been agreed to if it had been supposed that the guaranty to protect imposed no obligation.

If such a guaranty were found in a treaty between two nations it would not be doubted that a failure to keep it by the guarantor would call for pecuniary compensation. No argument is needed to support that proposition.

Just such a case occurred in our own history; such a guaranty was made by this Government to France. There was a failure to keep it. France demanded indemnity and it was paid.

While the Constitution is not a treaty, its acceptance by the States under the circumstances makes the obligation in principle the same, and the duty to keep it is, if possible, more imperative, because it was a condition precedent to national existence.

If there were no other considerations than the mere provisions of the Constitution and the facts submitted, these, in the opinion of your committee, not only justify, but demand, that compensation be made for these losses. But there are other considerations that are worthy of notice.

The writings of Grotius, Vattel, and others are continually cited as authority for the doctrine that nations are not liable to pay citizens for losses of property incident to the ravages of war; but the rule laid down by them, as will presently appear, has the important qualification that it rests not upon any principle which forbids, but only upon an inability to pay.

We have already shown that this case does not fall within the rule. But, conceding the rule, nobody has ever questioned that it is a harsh rule, and no writer has ever attempted to justify it except upon the ground of necessity.

It is not and can not be defended because it is a just rule. It is only said that it is the misfortune of the citizen to have property where the shock of battle came or in the path of an invading enemy, and that his Government has not money enough to compensate him. He does his full duty in common with all other citizens and added to this is the loss of his property, a loss they do not suffer. It is a loss incurred in a conflict involving interests common to all, and justice would demand that the loss should be the loss of all. There is no logic that can reach any other conclusion.

The rule referred to was stated by Grotius three hundred years ago, and was repeated by Puffendorf and Vattel two hundred years ago.

Courts still adhere to it; but no nation in its sovereign capacity is controlled by it, or can be justified in resorting to it, to escape its moral obligations to its citizens, because it can not be defended upon any principle of justice.

That the tendency of nations is in the direction of equalizing among all the citizens such losses is evidenced by the fact that such a nation as Great Britian compensated the Tories of the Revolution for losses incident to adherence to the sovereignty of the mother country; and France compensated her citizens for losses inflicted by the German army of invasion, and, also, such as were inflicted by her own army.

And we are not without precedent in our own country, for our Government has repeatedly, by statutes, compensated our citizens for losses by reason of destruction of property by the British in the war of 1812.

But this claim stands on a higher plane and on a firmer foundation than any of these. Its payment requires no departure from any rule, wise or unwise, just or unjust; it rests not only upon a principle inherently just, but also upon a solemn guaranty in the Constitution of the United States. To that the State of Pennsylvania appeals.

It is no answer to this that the amount is large. Nor is it any answer that other States may present claims.

THE GENERAL LAW OF NATIONS.

The arbitrary general rule which prevails in the law of nations that a government is not liable for damages which occur to its citizens in war is invoked against this claim, and, notwithstanding its merits, the danger of establishing a troublesome precedent by making it an exception is the strongest argument of its opponents, as if common justice should ever be dreaded because of its example. The hypothesis upon which the law of nations upon this subject is predicated, however, is that such damages would generally be so large that it would be impossible for the government to pay them. This was true in former times, when invading armies in their progress devastated vast areas of territory, destroying every vestige of real and personal property. Thus Peter the Great, in his retreat before the formidable Charles XII, ravaged over eighty leagues of his own country, leaving it utterly incapable of sustaining the lives of his pursuers, and thereby weakening and ultimately overwhelming them at Pultowa.

In the same way, in the seventeenth century, the cruel French general in his invasion of the Palatinate, one of the most thrifty, fruitful, and beautiful portions of Europe, burned and razed to the ground everything in his march. It was in this ruthless war that the splendid castle of Heidelberg was destroyed, leaving one of the most magnificent ruins in the world. This was the practice in all the most ancient wars, when nothing was exempted, not even the sacred places, but all were subject to confiscation and destruction. Cicero expresses this idea in metaphorical language in his fourth oration against Verres, when he declares that, "Victory made all sacred things of Syracusans profane." The terrible fate of Syracuse, Carthage, Troy, and innumerable cities of the past furnish appropriate illustrations of the same fact.

The cold legal rule laid down by Grotius, Puffendorf, Vattel, and others who have written on the subject, that nations are not bound to pay their citizens for the loss of their property caused by the ravages of war, does not therefore rest on any principle which forbids such

payment for want of equity or justice, but in all cases bases the doctrine upon the inability of the nation to pay. These authors all declare that—

> The sovereign indeed ought to show an equitable regard for the sufferers if the situation of his affairs will admit of it. * * * It is perfectly consonant to the duties of the State and the sovereign and of course perfectly equitable and even strictly just to relieve as far as possible those unhappy sufferers who have been ruined by the ravages of war. * * * There are many debts which are considered as sacred by the man who knows his duty, although they do not afford any ground of action against him. (Vattel, Book III, chap. IX, p. 46.)

The rule is a harsh, unreasonable, and unjust one, and no writer has ever attempted to support it except upon the ground of inexorable necessity. The inability of the government to pay is the sole reason of the rule. Whenever the reason ceases the rule should cease, and the tendency in the practice of all modern civilized nations is overwhelmingly in favor of equalizing among all their citizens such losses as fall upon those who happen to live at the seat and in the vortex of war. In conformity with this view England compensated the Tories for their losses in adhering loyally to the mother country in the war of the Revolution, and similar instances are found all along the line of modern nations.

At the close of the Franco-Prussian war of 1870 France, from a treasury depleted as that of no nation had ever been in recent times, paid its citizens who had lost their property in the mighty conflict 220,000,000 of francs, and with the transcript of the law under which such payment was made, furnished to our Secretary of State (Mr. Blaine) by the French Government at the request of the War Claims Committee, is connected the statement that "at the conclusion of wars the French Government has always intervened in virtue of special laws to allot as a free gift relief to persons who have sustained loss at the hands of the enemy." Germany, likewise, at the conclusion of the same war, paid her citizens the assessed value of every dollar's worth of property, real and personal, which had been destroyed.

Why should not at least the most meritorious of such losses in our late war be paid? Were they not incurred inexorably and necessarily in the common defense? Have not all the millions of our people shared equally in the beneficent result of the triumph, and should they not in justice join in paying the cost? Why should a few thousand of our population lose all they had on earth in a great national contest and not be subrogated to the right of contribution from the millions who lost nothing and who are amply and abundantly able to pay? Why are the chief beneficiaries of a restored and reunited nation not bound in equity, conscience, morals, and honor, and in every way to bear their part of the sacrifices and burdens of those through whom the benefactions came?

We now restate in the form of a condensed recapitulation the controlling facts which seem to the committee to take this claim of the State of Pennsylvania out of the operation of that rule of the public law upon which the opposition to this claim is based, and which rule is, in substance, that no action lies against the State for the misfortunes and ravages of war (120 U. S. R., 234); and which facts bring said claim within the operation of that equally established qualification of the said rule which ordains that in all such cases of loss "the sovereign indeed ought to show an equitable regard for the sufferings of such injured citizens, if the situation of the affairs of the state will admit of it."

In this recapitulation we will, for the sake of brevity, and as covering the great body of the present claim, leave out of view the losses of the State and the people of Pennsylvania occurring prior to 1864.

The facts which make up the basis of the claim applicable to that year are as follows:

1. The civil war was still flagrant.

2. The military events of 1863, and those extending up to the defeat of Gen. Wallace on the Monocacy and prior to the invasion of Pennsylvania by the brigades of Johnson and McCausland, about the 29th of July, 1864, had rendered it possible for Pennsylvania, aided by the necessary effects of the military operations of the United States then being prosecuted south of Pennsylvania, to defend the State against said threatened invasion, provided the United States had allowed Pennsylvania to retain her own regiments of Pennsylvania troops which she had, previously to the burning of Chambersburg, provided for her defense against such invasion.

3. This militia, so provided by the State in the year 1864, for the defense of the State and her citizens, and which was, as stated below, turned over to the National Government, was no part of the military quota of Pennsylvania, such quota being full independently of the said militia forces ordered into the service of the United States in 1864.

4. The authorities of Pennsylvania, having foreseen said danger of invasion, not only provided said militia force in amount reasonably adequate (had the State been permitted to retain and use the same for the purpose for which it was raised) for the repelling of said invasion, resulting in the said destruction of Chambersburg and other losses of that year, but also applied at the War Department to be allowed to retain her own said militia for the purpose of her said defense. But such request was refused, and the State of Pennsylvania was required to turn over, and did turn over, to the United States, of her militia so raised, armed, organized, and equipped at her own expense, and which was not necessary to make up any part of her military quota, seven regiments at least, the last of which left the State on the 29th of July, 1864, at which time no part of the Confederate army had yet reached, but was then approaching, the State of Pennsylvania.

5. On the 29th of July the Confederate brigades of Johnson and McCausland, consisting of from 2,500 to 3,000 men, with six guns, crossed the Potomac at Clear Spring, and marched immediately into Pennsylvania, and reached Chambersburg Saturday, July 30, where the only Federal forces left for defense consisted of a company of infantry of about 60 men and 45 cavalry, and a battery of artillery, less than 150 in all; these, under Gen. Couch, being totally inadequate to make any defense of the said town.

6. On the morning of the 30th of July a portion of the said Confederate forces reached Chambersburg, and thereupon, after demanding $100,000 in gold or $500,000 in Government funds from the citizens, and without waiting for them to comply with the said demand, the said town was pillaged and burned by said Confederate forces.

These depredations and those immediately preceding and following make up the great body of the present claim.

7. The exposed condition of Pennsylvania's southern border was at this time peculiar, and the danger of her people from the ravages of said Confederate forces was far greater than that of any other border State, for the reasons, amongst others, following:

(*a*) That her border was in the immediate vicinity of the conflict between the heaviest bodies of the two contending armies; and such

border could be reached by Confederate forces detached from her main armies for the invasion of Pennsylvania in a few hours from the time of their detachment.

(*b*) Such invasion was not only highly probable at the time the State was required to surrender her said militia, but the invasion was actually visible and in progress.

8. The State of Pennsylvania has been prompt, active, vigilant, and earnest in the preparation of this claim for allowance by the Government of the United States; has been guilty of no neglect or delay that would tend to prejudice the claim; and has, under the most careful provisions of law, taken testimony and made quasi judicial investigations, ascertaining and fixing the amount of losses resulting from the facts aforesaid; and has duly preserved the same, giving to the Government and all parties concerned full opportunity to present testimony before the commission provided by law for auditing the said claims, and has made record thereof; and has duly and repeatedly presented for payment the said claims and the evidence in support thereof.

9. The claimant in this case is one of the States of the Union, and is, as such, entitled to whatever benefit and indemnity results from the constitutional covenant which guarantees to the States "protection against invasion."

10. Although other States, and the loyal citizens thereof, sustained ravages committed by Confederate armies, which your committee incline to think the entire people ought to reimburse, in obedience to the above-quoted rule of the public law, which says—

> The sovereign, indeed, ought to show an equitable regard for the sufferings of such injured citizens if the situation of the affairs of the State will admit of it—

yet this claim of Pennsylvania, as above recapitulated, seems to your committee to be exceptional in many very obvious and important respects, and to bring this claim of the State peculiarly and clearly within the class which, under the present and more enlightened precepts of the public law, are required to be borne by the entire people of the country instead of being borne alone by the people upon whom these losses fell.

The foregoing constitute the entire substance of the controlling facts which decide the merits of the present claim. Your committee attach high importance to the consideration that these facts are, in their entire body and substance, facts incapable of bona fide dispute, because they are facts established by the public records of the State and of the Union, and are facts which have entered into and make a part of the accepted history of the country.

Hence it is that the duty of the committee is not one embarrassed by doubt, hesitation, or controversy regarding the facts that control the case, and we are only called upon to determine what the obligation of the Union is as resulting from them.

The facts recited above—giving prominence to the provisions made by Pennsylvania, through the organization of her militia to defend her own borders, and given to the further fact that, under the paramount authority of the supreme law, this militia was ordered into the U. S. Army in defense of the national capital, so as that this State militia was, in obedience to the orders of the President, actually marching out of the State which they were organized to defend when the Confederate invaders were in actual march to the places just vacated by that militia at the seat of the devastations which make the present claim—have not been here presented for the purpose of attempting to con-

demn or even criticise the acts of the President in so calling this militia away from Pennsylvania to the defense of the Union.

Legislatures have by the common judgment of mankind, as well as by our Constitution, not been looked upon as the best commanders of armies, even when the war is on. Much less is the present Congress now, at a distance of a quarter of a century from these immense and most complex affairs which led to the withdrawal from Pennsylvania of her militia, competent to intelligently condemn that act of withdrawal as either unwise or unjust, or one not resulting in the highest good to the entire Union.

But whilst it is not competent for this Congress to set in judgment upon or to decide *that* question, it is perfectly competent for this Congress to consider the intrinsic justice of a claim by the individual locality or State for the compensation out of the common treasury of the entire people for losses by such locality sustained for the common good. It is competent for this Congress to test the validity of that claim by those principles of natural justice which never change and which are the foundations of all public morality and public law. It is, for example, competent for the present Congress to determine whether one, who at his own expense and in exercise of his own vigilance and care, has made ample provision for defending his property against ravages of fire or other devastation and who, by public authority, is for the common good and at the hour of his extreme need stripped of those provisions made for defense of his property, ought, by the principles of universal and natural justice, to be compensated out of the common treasury for such losses of his individual property.

And it is with precisely this question of public law and of natural justice that your committee and the Congress of the Union now deal in determining upon the validity of the present claim. There enters into this question no nice or difficult or subtle or technical or even new question of law. Indeed there enter into it no questions which have not been adjudicated and settled by the common consent and conscience of the civilized world.

Your committee do not deem it needful here to enter upon an extended examination of the general question of the liability of governments to actions by the citizens for losses resulting from the ravages of war. The truth is that all the authority which is in existence on that subject is collected and cited in the opinion by Field, Justice, in the late case of The United States against The Pacific Railroad (100 U. S. R., 227). It is sufficient for the present purpose of the committee to say, as to all the authorities there cited and as to the conclusions reached by the court in that case, that they all not only recognize but expressly assert that principle of natural right on which your committee base their approval of the present claim. That principle is the one which we have already quoted from Vattel, and which the Supreme Court quotes in the case of The United States *vs.* The Pacific Railroad, *supra*, at bottom page 234, and which is expressed in the words already quoted, to wit, that "the sovereign, indeed, ought to show an equitable regard for the sufferer (whose property has been sacrificed for the common good) if the situation of his affairs will admit of it."

It will hardly be earnestly asserted that this claim of Pennsylvania, if otherwise entitled to payment on the principles of universal right and of immutable justice, and on the principles taught by the later and more benign practices of civilized nations, ought still to be rejected upon the pauper's plea that "the situation of the affairs" of this nation will not admit of this payment.

By the pendency of this conspicuous claim of one of the great States of the Union the nation and the people thereof are required to pass upon considerations like these:

1. That from the time of Grotius down the law of nations has taught that individuals and individual localities ought not to be left to bear exceptional and extraordinary burdens of war which have been incurred for and resulted in the general good, unless the situation of the national treasury is such as to forbid the nation's compensating such exceptional losses from the common treasury of the entire people.

2. The rigor of those principles of the common law which require individuals and localities to sustain losses incurred for and resulting in the general good, such as the destruction of private property for the prevention of the spread of fire in cities, has been universally relieved against and abolished by modern legislation, whereby such losses are thrown upon the common treasury of the people for whose benefit the individual loss is sustained.

An example of this remedial legislation is pointed to in such cases as Bowditch *vs.* Boston (101 U. S. R., 16) similar legislation being found in the statute books of about every, if not every, State in the Union.

So in regard to the rigor of the rule requiring individuals in war to suffer the losses resulting from the ravages of war.

The most conspicuous and the most honored events in modern history connected with war are those which tend to the amelioration of these hardships and to the abolition of the severities of the public or common law, whereby individuals were required to bear undue proportions of the losses resulting from the ravages of war.

Amongst these examples where governments have chosen to compensate individual losses coming from the ravages of war which were special and peculiar, no one is pointed to with more pride by the people of this country or is more honored by the common judgment of the world than is that one which is found in the history of the Treaty of Washington, whereby Great Britain paid to the United States the amount of special losses sustained by American citizens on the seas through the ravages of war, and whereby, pursuant to the designs of that treaty, the Government of the United States has paid to such sufferers indemnity for such special and peculiar losses.

Another example hereinbefore mentioned is in the compensation made by Great Britain for the losses sustained by the loyalists in the war of the Revolution.

Another example, before alluded to, of this relaxation of the severity of the rule prohibiting compensation for ravages of war is found in the compensation made by France to her own citizens for special losses incurred in the late French and German war.

These examples might be multiplied, but need not be. The manifest and conclusive teaching of them all is to admonish legislatures and governments that the spirit of the age and the morality of the public law unite in demanding that where war has brought upon individuals peculiar and special losses, which have been incurred for and resulted in the general good of the entire people, there the treasury of the entire people ought to make compensation therefor.

It is in obedience to this, which your committee deem one of the most excellent provisions of modern public law, that your committtee recommend the payment of the pending claim.

Your committee therefore report the bill with the recommendation that it do pass.

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53D CONGRESS, 1ST SESSION. } HOUSE OF REPRESENTATIVES. { REPORT No. 38.

HIRAM JOHNSON AND OTHERS.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 724.]

The Committee on War Claims, to whom was referred the bill (H. R. 724) for the relief of Hiram Johnson and others, reports as follows:

This claim was presented in the Fifty-second Congress and was favorably reported upon by the Committee on War Claims, to whom it was referred. After a careful investigation of the facts involved, your committee adopt the report of the committee of the Fifty-second Congress, a copy thereof being hereto attached and made a part of this report, and recommend that the bill do pass.

[House Report No. 19, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 1219) for the relief of Hiram Johnson and others, submit the following report:

The facts of this claim are fully set forth in a report made by this committee to the House in the first session of the Fifty-first Congress, hereto annexed and made a part of this report.

Your committee therefore adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 14, Fifty-first Congress, first session.]

The facts out of which this claim for relief arises and the reasons of the committee for recommending the passage of the bill will be found stated in the report of the Committee on War Claims, submitted to the second session of the Forty-sixth Congress, by Gen. Bragg, of Wisconsin, who was then chairman of said committee, which report is as follows:

[House Report No. 1345, Forty-sixth Congress, second session.]

The Committee on War Claims, to whom was referred the petition of Hiram Johnson and others for relief, submit the following report:

The facts out of which this claim for relief arises will be found stated in House report of the Committee on Military Affairs, No. 184, second session, Forty-fourth Congress, and in reports from the Secretary of War, with correspondence attached, on file with the papers in the case, and are in substance as follows:

On the 25th day of November, 1862, a party of rebels made a raid upon a small force of Union troops stationed at Henderson, in the State of Tennessee, on the Mobile and Ohio Railroad. The raiding party captured the Union troops, with their arms and

camp equipage, burned a quantity of cotton belonging to the United States and to private individuals, and also destroyed the depot buildings and water tank belonging to the railway corporation.

Thereupon, on the 2d day of December following, the commandment of the Union forces at the post of Bethel, Tenn. (Col. J. N. Haynie, Fortieth Regiment Illinois Volunteers), appointed a board of officers to investigate the losses sustained and appraise the damages suffered from the raid, with a view to an assessment by way of reprisal upon rebel sympathizers in and about Henderson.

The board so appointed assessed the value of the property captured and destroyed as follows:

Cotton burned belonging to the United States	$1,900.00
Arms and camp equipage belonging to the United States	3,180.00
Total belonging to the United States	5,080.00
Cotton belonging to private persons	18,171.36
Railway property	3,500.00
Grand total	26,751.36

Upon this report being made, Col. Haynie ordered an assessment of this amount to be levied upon the rebel sympathizers in and about Henderson, which action was approved at the headquarters of the district of Jackson, in the Department of Tennessee, Brig. Gen. Sullivan commanding, on the 12th day of December, 1862; and an order bearing date on that day was issued from said last-named headquarters directing the collection of the tax.

Col. Haynie proceeded in the execution of the order, and collected of the said assessment the sum of $23,325.16, leaving a deficit of $3,426 20 not collected, by reason of the absence of the persons against whom the same was assessed. And thereafter, but at what precise date does not appear, Col. W. W. Sanford, Forty-eighth Illinois Volunteer Infantry, commanding post at Bethel, made an additional and supplemental assessment for $4,326.20, to make up such deficit; and of this amount there was collected $4,026.20, making the total amount collected to repair losses and damages sustained by said raid $27,351.36; all of which sum was paid by the persons now asking relief by this petition.

The right of the military commandant, in time of war, to order and enforce assessments upon hostile communities by way of reprisal, and to prevent the giving information and encouragement to enemies outside of his lines by enemy sympathizers within his lines, is well settled and affirmed by all writers upon the laws of war, and is a most salutary check upon predatory incursions, by making the friends of those who commit the damage bear the brunt of the injury suffered.

At the time of the appraisal of the damages and of the levying and collecting these assessments it was supposed to be under and in execution of an order of Gen. Grant, then commanding the troops in that department. But it appears from the papers filed that Gen. Grant disavowed the construction put upon his general orders by the local officers, and declared the purpose and intent of his general order to be that reprisal should be made by way of levy and assessment in case of raids within our lines, like the one at Henderson, only to repay such losses as the Government might sustain in its property thereby, and he refused to recognize the right of private claimants to reimbursement by such levy and assessment; and on the 23d day of January, 1863, ordered the proceeds of such assessment and collection to be turned over to the provost-marshal-general; and it appears by the papers filed that his action in denying the right of private claimants to reimbursement for losses sustained by the raid out of this fund was approved by the Secretary of War, on the report made thereon by Gen. M. C. Meigs, which report maintains the law to be that the power existed to levy and collect an assessment to pay private losses in the discretion of the general commanding; but as against such general's construction of his own order and purpose no right whatever could accrue to a private claimant for reimbursement.

The logical sequence from these facts, and this declaration and construction by Gen. Grant of his orders, seems to be that the subordinates, in the execution of the orders of the commanding general, should have made an assessment only for the losses sustained by the Government, viz:

For cotton burned belonging to the United States	$1,900
Arms and camp equipage belonging to the United States	3,180
	5,080

Had the Government rebuilt or repaired the injury to the railway property, as an essential for their use of it, that also should be included as a proper item for assessment; but the evidence shows that the railway company repaired their injuries at their own expense.

Deducting this amount, for which the assessment was authorized, from the total amount collected, there remains a balance $22,271.26 taken from the petitioners under a misconstruction of the order of the commanding general, as certified to by his own action and the evidence of an officer of his staff.

This committee have maintained, and still adhere to the doctrine, that no nation is liable for the willful torts of its soldiery.

But was this assessment a tort, within the meaning of such well-established doctrine? It is submitted that this wrong is clearly without the rule, because this assessment was collected by an officer of high rank, commanding a military district, in the execution of an office giving him colorable authority, to say the least, to do the act he did; and that act was ratified by the general commanding, impliedly at least, by not ordering restitution when the excessive assessment came to his knowledge.

But if the reasoning on this point may be deemed questionable, there is upon the facts another and complete answer to the application of this principle. The proof shows to an absolute certainty that of the money so collected $23,325.16 was applied by the United States to its use, knowing the source from whence it was derived, and the remainder of the sum, $4,026, by all reasonable presumption, was likewise applied to the use of the Government. And the committee is so constrained to hold, as a contrary conclusion would compel us to impeach the integrity of a gallant officer who fell before Vicksburg without a stain upon his citizen or soldier life.

The law of the case, then, may be stated to be, that if the officers, agents of the Government, committed a tort originally, it was approved by the principal, the Government, when it knowingly accepted the benefits of the tortious acts. And no proceedings by way of confiscation or condemnation have ever been had to divest the persons so assessed of their right in the surplus fund.

Hence your committee are constrained to hold that the claims of the petitioners to the amount collected of them ($22,271.26) in excess of the requirements of Gen. Grant are valid, and that the Government ought in right refund the same; and report herewith a bill, redistributing the same to the persons who paid the same ratably, in proportion to the sums originally paid by each of them, respectively, and recommend its passage.

Your committee adopt the said report as their own, and report herewith a substitute for the bill and recommend its passage.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 39.

HEIRS OF DR. NATHAN FLETCHER.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2767.]

The Committee on War Claims, to whom was referred the bill (H. R. 2767) for the relief of the heirs of Dr. Nathan Fletcher, have had the same under consideration and find that Dr. Fletcher died in 1857. His widow and five children (four girls and one boy), all minors, continued to live on the plantation until several years after the close of the war.

Some time in the month of October, 1864, the U. S. transport *Stone River*, under convoy of the gun-boat *General Stanley*, Capt. William A. Naylor, commanding, landed at Dr. Fletcher's plantation and took possession of, and carried off, 32 bales of cotton, weighing at the gin, when packed, 18,845 pounds. These 32 bales of cotton were carried on said transport to the town of Decatur, Ala., thence shipped to some point in the North, where the said cotton was sold, and the proceeds covered into the Treasury of the United States.

The committee find that these 32 bales of cotton have been indubitably traced and followed, until their proceeds were finally lodged in the Treasury of the United States, as is attested by the following letter from the honorable the Secretary of the Treasury, which the committee beg to make part of this report:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., January 8, 1887.

SIR: Replying to your three letters under dates of July 16 last, August 4 last, and December 22 ultimo, asking for information respecting the claim of Mrs. Susan R. Fletcher to the proceeds of certain cotton seized from her plantation during the late civil war, I have the honor to inform you that it appears from the records of this Department that on January 30, 1864, at Fletcher's Ferry, about 30 miles above Decatur, Ala., on the South bank of the Tennessee River, 32 bales of cotton, said to be the property of Mrs. Susan Fletcher, were seized by a detachment from the United States transport *Stone River*, which cotton was afterwards sold and the proceeds covered into the Treasury. It further appears from a report on file that Mrs. Fletcher was disloyal to the Government and in active sympathy with the Confederate cause; that during the war Federal gunboats were more frequently fired on by persons harboring on her place that from any other point on the river. She afterwards made application to the Secretary of the Treasury for the restoration to her of the cotton, or its proceeds, but her claim was rejected, on what ground does not appear, though it is presumed from certain notations on the papers that the ground of rejection was that it was a military seizure, and consequently not within the jurisdiction of the Secretary of the Treasury.

The papers and reports in this case await your examination.

Respectfully, yours,

D. MANNING,
Secretary.

Hon. JOSEPH WHEELER,
House of Representatives.

The committee also append the following statement of facts and circumstances relating to said claim, verified by the affidavit of A. E. Ashford, the guardian and agent of claimants:

Dr. Nathan Fletcher died at Fletcher's Ferry, in Morgan County, Ala., in the year 1857. His widow, Mrs. Susan R. Fletcher, and children, four girls and one boy, continued to live at Fletcher's Ferry, on Tennessee River, alone, until several years after the war closed. In October, 1864, the transport boat *Stone River*, under convoy of armed boat *General Stanly*, Capt. William A. Naylor commanding, landed at Fletcher's Ferry, and the boat crew, by order and direction of Captain Naylor, seized and took possession of 32 bales of cotton (gin weights when packed 18,845 pounds) lying at the gin-house, close to landing at ferry, and hauled all of said 32 bales of cotton with a wagon and four mules belonging to said heirs of Nathan Fletcher to the boat landing and put it on the transport boat *Stone River*, carried it to Decatur, Ala., thence shipped it to Washington, D. C., and said 32 bales of cotton were sold in January, 1865, and proceeds of such sale were covered into the Treasury of the United States Government and are now there, as the records of the Treasury show by official statement by Hon. Daniel Manning.

All of the children of Dr. Nathan Fletcher were minors at the time of seizure of their cotton. Mrs. Susan R. Fletcher, his widow, was exceedingly prudent, cautious, and conservative in conduct toward both armies, which course was necessitated, if for no other reason, by her unprotected and defenceless condition, all of which is abundantly shown by affidavits in evidence. The fact and manner of seizure of thirty-two bales of cotton is shown and proven by the sworn evidence of James R. Johnson and Richard Easly, pilots on the boats present, and on which the cotton was taken away; also evidence of negroes present and eye-witnesses. It is also shown in evidence that Mrs. Susan R. Fletcher did take the oath of allegiance to the United States or Federal Government, at Huntsville, in 1864, and that she did get an order from General Stanly, then commanding there, for the recovery and the delivery of said thirty-two bales of cotton to her, showing conclusively that she was loyal, and innocent of any charge of disloyalty or overt act against the United States Government, or of any active aid given the Confederate cause.

Mrs. Susan R. Fletcher, the widow, is dead. Her eldest daughter, Josephine, and her husband, Oliver P. Saunders, died of yellow fever at Grenada, Miss., in October, 1878, and their five children are yellow-fever orphans, and they, as well as all the heirs of Dr. Nathan Fletcher, need, and respectfully pray your honorable body for relief by an act of justice in awarding compensation to them for their thirty-two bales of cotton so taken and used by the United States Government.

Respectfully submitted.

Per A. E. ASHFORD,
Agent by power attorney for heirs Dr. Nathan Fletcher, deceased.

STATE OF ALABAMA, *Lawrence County:*

I certify that the person whose name is signed to this paper personally appeared before me, and after being sworn according to law, on oath, says that the statements, allegations, and averments set forth in this paper are true, to the best of his knowledge and belief.

January 26, 1888.

JOHN A. GILCHRIST,
Notary Public.

The committee also append the petition of claimants, verified by affidavit and certificate of A. E. Ashford.

Said petition sets forth the amount of the claim and circumstances attending the seizure of the cotton.

The petition is in words and figures following:

PETITION.

Your petitioners, Caroline T. Ashford, Clara S. Ashford, and Lena I. Ashford, respectfully represent that they are citizens of the United States, residing in the county

of Lawrence in the State of Alabama, and Sarah M. Saunders, Mary C. Saunders, Eugene P. and James L. Saunders, residing in the county of in the State of Mississippi; and James I. Fletcher and Martha F. Burt, residing in the county of in the State of Mississippi, all being citizens of the United States and heirs of Dr. Nathan Fletcher, deceased, and that when this claim accrued they resided at or near Fletcher's Ferry, in Morgan County, Ala. That they have a claim against the United States for 32 bales (18,000 pounds) of lint cotton, taken for the use of the United States during the late rebellion. That they did not give aid or comfort to the rebellion during the late war, but were all minors and loyal to the Government of the United States during that war. Your petitioners further state that the value of the property so taken, and for which the Government of the United States is indebted to petitioners, amounted to $23,000, and that said property consisted of the following-named items or articles, being then and at that time of the true value herein stated, to wit:

The United States Government, Dr., to heirs of Dr. Nathan Fletcher, deceased.

1864.			
October	15.	To 32 bales of cotton, 18,845 pounds, at $1.25 per pound...	$23,156.25
		To 1 black mule, Tibb, at $200.....	200.00
Oct. and Nov.		To 600 bushels corn	300.00
		Total amount due heirs of Dr. N. Fletcher.....	23,656.25

Wherefore your petitioners appeal to your honorable body and ask that the bill introduced on December 21, 1887, in first session of Fiftieth Congress, H. R. 34, entitled "A bill for the relief of the heirs of Dr. Nathan Fletcher," and the papers and evidences relating to said claim, and which were referred to the Committee on War Claims, be called for, and all the evidences attached thereto as part of the report and proof of said claim.

A. E. ASHFORD,
Agent, by power of attorney, for Heirs of Dr. Nathan Fletcher.

STATE OF ALABAMA, *County of Lawrence:*

I certify that the person whose name is signed to this paper personally appeared before me, and, after being sworn according to law, on oath says "that the allegations and averments set forth in this paper are true."

January 26, 1888.

JOHN A. GILCHRIST,
Notary Public.

The committee also append the affidavits of Richard Easly, James R. Johnson, Minty De Louch, Louis De Louch, Stephen Graves, Lizzie N. Moore, Robert Wiggins, Dr. James A. Beasley, Dr. Richard M. Fletcher.

These affidavits show the circumstances under which the cotton was taken.

The affidavits also show that the family of Nathan Fletcher did not do any act of disloyalty during the war; they show they had nothing to do with nor knowledge of any firing on gun-boats or any other hostile act committed by Confederates or any one else in the vicinity of their home.

The affidavits show they did not harbor any persons who committed hostile acts.

The affidavits also show that the heirs of Nathan Fletcher were his widow and children, consisting of a boy nine years old and three young girls.

The committee can not presume that a boy nine years old and three little girls were disloyal in a case like this where there is not a particle of evidence to show they were disloyal or ever did a disloyal act.

The affidavits are in words and figures following:

STATE OF ALABAMA, *Marshal County:*

Richard Easly, of the to wn of Warrenton, in the county and State aforesaid, being duly sworn, upon oath says:

I was employed in the Army and in the naval service of the United States Govern-

ment as pilot, by Capt. William A. Naylor, to pilot boats belonging to and used by said Government on the Tennessee River during the years 1864 and 1865. In the fall of 1864 I was piloting the transport gun-boat *Stone River*, commanded by Capt. William A. Naylor. On a trip down the river, about the middle of October, I was ordered and did land the boat at Fletcher's Ferry, some 14 miles above Decatur. A lot of cotton bales was taken from a gin-house on the bluffs near the river, by order of Captain Naylor, and put on the boat I was piloting and carried to Decatur. We often stopped at Fletcher's Ferry, and I knew Mrs. Susan Fletcher and family. Her children were young.

I knew of no charges against her or cause why the cotton was taken.

I am forty-seven years old and live in Marshal County.

And further says not.

his
RICH. × EASLY.
mark.

Sworn to and subscribed before me this the 28th day of May, 1874.

JNO. D. TAYLOR,
Justice of the Peace.

STATE OF ALABAMA, *Marshall County:*

I, L. D. Lusk, judge of the probate court of said county, hereby certify that John D. Tayler, whose official signature is signed to the foregoing affidavit, is now and was at the time of signing the same an acting justice of the peace in and for said county, and that full faith and credit are due all his official acts as such.

In witness whereof I have hereunto subscribed my name and affixed the seal of said court at office in the town of Guntersville, this the 29th day of May, A. D. 1874.

L. D. LUSK,
Judge of Probate.

STATE OF ALABAMA, *Lawrence County:*

I, John A. Gilchrist, notary public for said county, certify that the foregoing is a true copy of the original papers.

Given under my hand and notarial seal this the 15th day of November, 1887.

JOHN A. GILCHRIST,
Notary Public.

STATE OF ALABAMA, *County of Marshall.*

Capt. James R. Johnson, of the town of Guntersville, in the county and State aforesaid, being duly sworn, on oath says:

I was employed as pilot in the service of the United States by Captain Glassford, to pilot and conduct boats belonging to and used by the United States Government on the Tennessee River during the late war with the States then in rebellion, and so acted as pilot during the years of 1864 and 1865.

During the fall of 1864, on or about the 15th day of October, I was pilot on the armed boat *General Thomas*, and while on down trip acted as convoy to the transport gun-boat *Stone River*, commanded by Capt. William A. Naylor.

The gun-boat *Stone River* stopped and landed at Fletcher's Ferry and took on a lot of cotton, which was brought down from a gin-house on the bluffs near the lower landing at said ferry. From appearance I judge thirty odd bales was taken from the gin-house.

The cotton was taken to Decatur, Ala., some 14 or 15 miles below and unloaded. I saw the cotton lying on the river bank at Decatur. The *General Thomas* did not land at Fletcher's Ferry, but stood out in the river opposite the landing. I do not know what disposition was made of the cotton. I was informed, and it was generally understood, that the cotton belonged to the estate of Dr. Nathan Fletcher.

I knew Mrs. Susan R. Fletcher, widow of Dr. Fletcher, and family, and know of no cause why the cotton was or should have been taken.

Mrs. Fletcher's family consisted of four daughters and one son, then about eight or ten years old.

And further says not.

JAMES R. JOHNSON.

Sworn to and subscribed before me this the 28th day of May, 1874.

JOSEPH B. FURGERSON,
Justice of the Peace.

STATE OF ALABAMA, *Marshall County:*

I, L. D. Lusk, judge of the probate court of said county, hereby certify that Joseph B. Furgerson, whose official signature is affixed to the foregoing affidavit, is now, and

was at the time of signing the same, an acting justice of the peace for said county, duly elected and qualified, and that full faith and credit are due all his official acts as such.

In witness whereof I have hereunto subscribed my name and affixed the seal of said court at office in the town of Guntersville, this the 29th day of May, A. D. 1874.

L. D. LUSK,
Judge of Probate.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, D. W. Beadle, a justice of the peace in and for said county and State, Minty De Louch, of the town of Triana, in the county of Madison and State of Alabama, who, being duly sworn, upon oath says: I formerly belonged to the estate of Dr. Nathan Fletcher, and was the cook. I lived with Mrs. Susan R. Fletcher and family at Fletcher's Ferry, on Tennessee River, until after the war was over. There were three girls and one boy in the family then. The oldest child, Miss Josephene, was about eighteen or nineteen years old, and the boy, Jimmie, some nine or ten years old. I was born and raised in the family, and stayed with the family all the time of the war. Mr. John J. Fletcher was guardian of the children, and Dr. Dick Fletcher the family physician. The Fletcher boys sometimes came to see how we were getting on, but I hardly ever saw any other men nor rebel soldiers about our house. I never saw or heard of any rebel soldiers being hid about Miss Susan Fletcher's, and I know that the rebel soldiers never fired at the Union soldiers nor the gun-boats about our house, for I lived in the yard close to the family, and would have seen it and heard it if they had done it.

Col. Joe Patterson fired the cannon once, I know, at the Union soldiers, from the bluffs below our house; and General Roddy's men shot across the river at Union soldiers in the stockade. Captain Naylor told Miss Susan, right before my face, that if any of his men or any of his boats were fired at about there, he would burn her house up; and if she kept rebel soldiers about her he would burn her house and take her prisoner; so she told the rebels to stay away from her, for the Yankees would burn her house up. I saw Captain Naylor's men when they hauled our cotton from the gin-house and put it on their boat. They took our wagon and mules and hauled it, and killed one of the best mules we had. Old Tibb, hauling the cotton, broke a blood-vessel, and she bled at the nose and mouth, and died soon after that.

We lost a heap of our meat and chickens by them; had to hide everything, for both sides would rob us. The Union soldiers said if they did not take the cotton the rebs would, so they took it to keep the rebels from having it. Captain Naylor and his men often come up to the house and give Miss Susan newspapers to read.

And further says not.

her
MINTY × DE LOUCH.
mark.

Sworn to and subscribed before me this the 4th day of February, 1887.

D. W. BEADLE,
Justice of the Peace in and for said city.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, Daniel W. Beadle, a justice of the peace in and for said county and State, Louis De Loach, of the town of Triana, in the county of Madison and the State of Alabama, who, being duly sworn, upon oath says: I lived in Morgan County, near Fletcher's Ferry, on Tennessee River, during the war. My wife, Minty De Loach, belonged to the estate of Dr. Nathan Fletcher, and she cooked for his widow, Mrs. Susan, and family. I lived near and went to see my wife nearly every night. Mrs. Fletcher did not harbor any Confederate soldiers or spies of nights, or I would have seen them, for my wife lived in the yard. Mrs. Fletcher often told me to tell all the rebel soldiers that they could not stay all night. She was afraid that the Union soldiers would take all she had and burn her house. Colonel Patterson once fired at some Union forces to keep them back until he could cross the river, and the gunboats soon after shelled her house, so that all of her family had to leave home, and stayed in the woods all day long. The rebel soldiers did not stop with her on that account, but went out to Mr. Fount Roberts's woods, a mile off, to camp. Mrs. Fletcher often said she would move away from the ferry because it was so public, but had no place to go. She lost some cotton from her gin-house, and a large black mule and about 50 acres of corn on the north side of the river, taken by the Union soldiers. I saw them gathering the corn, and my wife told me they took the cotton.

The soldiers would take her meat, chickens, hogs, and anything they wanted, and often left her without anything to eat. I never knew Mrs. Fletcher to do anything to injure or hurt any of the Union men.

And further says not.

his
LOUIS × DE LOACH.
mark.

Sworn to and subscribed this the 4th day of February, 1887, before me,
DAN'L W. BEADLE,
Justice of the Peace in and for said County and State.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, Daniel W. Beadle, a justice of the peace in and for said county and State, Stephen Graves, of the town of Triana, in the county of Madison and State of Alabama, who, being duly sworn, upon oath, says: I lived with the widow and family of Dr. Nathan Fletcher, deceased, at Fletcher's Ferry, on the Tennessee River during the years 1862, 1863, 1864, and 1865. My wife Celia belonged to that estate. I was the only man that stayed all the time on the place, and I attended to the stock and took care of everything after the overseer, Mr. Jno. Dunn, left in 1863. The gunboats often stopped at the ferry in passing up and down the river. About in October, the fall before the surrender, Captain Naylor landed his boat at the bluffs below the ferry, and one of the officers came off the boat and made me hitch four mules to our wagon and his men took the wagon and hauled every bale of cotton we had to the boat, and put it on the boat and carried it away. They took 32 bales, for I was right there and saw them do it.

The Union men said they took it to keep the rebs from getting it. I told them that it had been lying there a long time without any one troubling it before. They made seven loads and killed the best mule on the place—pulled her so hard that she bursted a blood vessel and the blood run out of her mouth and nose; so she died soon after. She was a big black mare mule, named Tibb, and was worth $200 in gold. The Confederate soldiers did not come about us much, only in crossing the ferry. I never saw any of them hid about Miss Susan's. She was afraid to let them even stay all night.

There never was any fighting done close to us, except when Colonel Patterson shot his cannon at the Union soldiers when they followed him to the river, when he made the raid on Madison Station; and he done that to keep them off him until he could cross the river. We were always glad to be rid of both sides, for they just took anything they could lay their hands on; both sides robbed us, I tell you. And further says not.

his
STEPHEN + GRAVES.
mark

Sworn to and subscribed this the 4th day of February, 1887, before me,
DAN'L W. BEADLE,
Justice of the Peace in and for said county and State.

THE STATE OF ALABAMA, *Madison County:*

I, Thomas J. Taylor, judge of the court of probate, which is made by law a court of record in and for said county and State, hereby certify that D. W. Beadle, whose name and genuine signature appear to the annexed certificates, was, at the time of attesting the same, a justice of the peace in and for said county, duly commissioned and qualified; and that, as such, his acts and doings are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said State, at office, this 5th day of February, A. D. 1887.

[SEAL.]

THOMAS J. TAYLOR,
Judge of Probate.

STATE OF ALABAMA, *Madison County:*

Personally appeared before me, C. C. Gewin, a justice of the peace in and for said county and State, Mrs. Lizzie N. Moore, of the town of Madison, in the county of Madison and State aforesaid, who, being duly sworn says: I knew Mrs. Susan R. Fletcher, widow of Dr. Nathan Fletcher, intimately from the time of her marriage with Dr. Nathan Fletcher until the time of her death, 1886. I was informed by her and my father, Jno. L. Fletcher, administrator of Dr. N. Fletcher's estate, that she took the oath of alle-

giance in 1864 to the United States Government in Huntsville, Ala., and obtained an order from General Stanley, commanding, for the recovery of thirty-two bales of cotton taken by Federal troops from the estate of Dr. Nathan Fletcher in October, 1864. The family of Dr. Nathan Fletcher consisted of his widow, Susan R. Fletcher, four girls, and one son. The eldest child, Josephine, was born in September, 1846; I do not believe she took any part on either side during the war. Her nature and defenseless position would not admit of so doing.

And further says not.

LIZZIE N. MOORE.

Sworn to and subscribed this the 24th day of February, 1887, before me.
[SEAL.] C. C. GEWIN,
Justice of the Peace.

STATE OF ALABAMA, *Madison County:*

Robert Wiggins, of the town of Madison, in the county of Madison and State of Alabama, being duly sworn, says that he was a Confederate soldier, and was wounded at the battle of Franklin, Tenn., in November, 1864, and on my return home I stopped at Mrs. Susan R. Fletcher's house, my home and county (Madison) being occupied by Federal forces. Mrs. Susan Fletcher, though an old friend, objected to my staying with her, being afraid of incurring the displeasure of the Federal authorities. I did not stop or stay with her, not wishing to subject her to possible injury by the Federals, as she was helpless and unprotected. I regarded her over prudent and cautious. Her five children were minors. I was informed, and believe it to be true, that she took the oath of allegiance to the United States Government. I have known Mrs. Fletcher since my childhood. She was timid by nature. I do not believe that she took any active part on either side during the late war.

And further says not.

ROBT. WIGGINS.

Sworn to this the 3d day of February, 1887, before me.
[SEAL.] C. C. GEWIN,
Justice of the Peace in and for said County and State.

STATE OF ALABAMA, *Madison County:*

Dr. James A. Beasley, of the town of Huntsville, in the county of Madison and State of Alabama, being duly sworn, says: I was personally acquainted with the widow and children of Dr. Nathan Fletcher, deceased. There were four girls and a boy. The eldest, Josephine, was about nineteen years old, and the boy, Jimmie, about nine years old, at the close of the war. I was often at Mrs. Fletcher's house during the war. I regarded her very prudent and careful of conduct towards both Union and Confederate soldiers. I saw no evidence of any aid given the Confederates. I was informed, and believe it to be true, that Mrs. Fletcher took the oath of allegiance to the United States Government, and she obtained an order from the general commanding, General Stanley, for recovery of some cotton taken from the estate of Dr. Nathan Fletcher in October, 1864, by Federal forces, and carried on boats to Decatur, Ala. I know of no charge of disloyalty against her, or any cause why the cotton should have been taken. And further says not.

JAMES A. BEASLEY.

Sworn to and subscribed this the 17th day of February, 1887, before me,
[SEAL.] ALFRED MOORE,
Notary Public.

STATE OF ALABAMA, *Madison County:*

Dr. Richard M. Fletcher, of the town of Madison, in the county of Madison and State of Alabama, being duly sworn, says: I was intimately acquainted with Mrs. Susan R. Fletcher and family, and often saw them during the war, being their family physician. The children—four girls and one boy—were all minors during the war; the eldest, Josephine, about nineteen years old; the boy, nine or ten years old. Mrs. S. R. Fletcher was passive and timid by nature, and I considered her very prudent and conservative in conduct toward both Federal and Confederate armies. Her extreme defenseless condition—if for no other cause—rendered such a course necessary and imperative. I know of no hostile act to the Federal cause, nor of any active aid given the Confederate government. I do not believe, nor ever heard, that she harbored or concealed any Confederate soldiers or spies about her; nor were Federal boats fired upon near her house except by troops in charge of regular Confederate

States officers. I am satisfied that she took the oath of allegiance to the United States Government at Huntsville and obtained an order from General Stanley, commanding, for the recovery of 32 bales of cotton taken from her gin by Federal forces and carried to Decatur, Ala., on a transport boat called *Stone River*. I know of no cause why the cotton was taken. And further say not.

R. M. FLETCHER.

Sworn to this the 3d day of February, 1887, before me.

C. C. GEWIN,
Justice of the Peace in and for said County and State.

THE STATE OF ALABAMA,
Madison County:

I, Thomas I. Taylor, judge of the court of probate, which is made by law a court of record in and for said county and State, that C. C. Gewin, whose name and genuine signature appears to the annexed certificate, was at the time of attesting the same a justice of the peace in and for said county, duly commissioned and qualified, and that as such his acts and doings are entitled to full faith and credit.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at office this the 5th day of February, A. D. 1887.

THOMAS I. TAYLOR,
Judge of Probate.

Personally appeared before me Col. Alver E. Ashford, who, being duly sworn according to law, on oath says that the above and within affidavits and evidences are a true copy of the original which are in his possession.

Sworn to and subscribed before me.

JNO. A. GILCHRIST,
Notary Public.

The evidence seems to show that the claimants have not been negligent in prosecuting their case.

We find the case has been prosecuted before the Treasury Department. We find that on January 19, 1874, Mr. Sloss, a member of the Forty-third Congress, introduced the following bill:

A BILL for the relief of the heirs of Doctor Nathan Fletcher, of Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and required to pay to the heirs of Doctor Nathan Fletcher, of Alabama, the sum of twenty-two thousand and four hundred dollars, in full payment of thirty-two bales of cotton taken from the plantation of the heirs of said Fletcher by order of Major Eaton, of the United States Army, in the year eighteen hundred and sixty-four, and sold by the Government; the said heirs being at the time of seizure of said cotton minors and non-combatants.

The committee also find that on July 19, 1886, Mr. Wheeler, of Alabama, introduced the following bill:

A BILL for the relief of Mrs. Susan Fletcher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Mrs. Susan Fletcher, widow of Doctor Nathan Fletcher, of Madison County, Alabama, out of any money in the Treasury not otherwise appropriated, the sum of sixteen thousand five hundred dollars, for cotton seized, the proceeds from the sale of which were placed in the Treasury of the United States.

All the facts show beyond question that the cotton was taken from the claimant by the Federal Army; that the cotton was sold and the proceeds placed in the Treasury.

No reason has been presented which justifies any further delay in returning the money to the rightful owners.

During the war the claimants were a widow and her little children—a boy nine years old and three girls—and there is no proof that they did any act of disloyalty.

A bill precisely like the one under consideration was reported favorably by the Committee on War Claims in the Fifty-second Congress. The report was presented to the House by Mr. Winn, and the number of the report in the Fifty-second Congress was 600.

The committee therefore report back bill H. R. 2767, and recommend that it be passed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 40.

WILLIAM E. WOODBRIDGE.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RITCHIE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1125.]

The Committee on War Claims, to whom was referred the bill (H. R. 1125) "referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852," report as follows:

That bills similar to the one referred to the committee have been favorably reported by every committee of the Senate and House to which it has been referred since the subject was brought before Congress, beginning with the Forty-ninth Congress.

The Committee on War Claims of the House of Fifty-second Congress, first session, made a report of the case which is appended hereto and adopted as a part of this report.

The passage of the accompanying bill is recommended.

House Report No. 177, Fifty-second Congress, first session.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1306.]

The Committee on War Claims, to whom was referred the bill (H. R. 1306) referring to the Court of Claims the claim of William E. Woodbridge for compensation for the use by the United States of his invention relating to projectiles, for which letters patent were ordered to issue to him March 25, 1852, having considered the same and accompanying papers, submit the following report:

Dr. Woodbridge's invention consisted in applying to a projectile to be fired from a rifled cannon a ring or sabot of soft metal for the purpose of giving to the projectile a rotary motion.

The iron projectile was of an elongated ovoid form, and the rear section, from a point near the center to a point near the rear end, was surrounded by a soft metal collar, cylindrical on its outer surface, but its inner surface fitting closely to the iron projectile.

The operation is thus described in the specification:

> A suitable charge of powder is to be introduced into the gun, and the ball and rifling placed in the position represented in Fig. 1, the rear of the ball being in contact with the charge of powder. The surface of the rifle ring exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the ring is driven forcibly forward upon the ball, so as to embrace it tightly and thus impart the rifle motion which itself has received from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage, and causing the ball to advance strictly in the line of the axis of the bore.

The application was filed February 11, 1852, and a patent was allowed and ordered to be issued on the 25th of March following. Two days previously to the allowance of a patent Woodbridge wrote to the Commissioner of Patents requesting that upon the issue or order to issue of a patent it might be filed in the secret archives of the office, in order that his ability to take out a patent in a foreign country might not be affected by the publication of the invention. To this letter the office replied on the 15th of April, 1852, informing Woodbridge that a patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office, *subject to his directions as to the time of issuing the same.* He had performed every requirement of the law, and no further payment was necessary for the issue of his patent, which depended thereafter on the Patent Office alone.

Not only had Woodbridge at this time taken means to secure his invention by patent, but had brought his invention to the knowledge of

the proper department of the Government and conducted a series of experiments with it at Fortress Monroe, of which detailed reports have been furnished the committee by the War Department. These experiments showed the superiority in respect of accuracy and penetration, now so well known, to be obtained by the use of rifled cannon with suitable projectiles, and the practicability of exploding shells by means of percussion fuses.

Dr. Woodbridge, relying on the action and statement of Commissioner Ewbank, above recited, did not call for the issue of his patent until December 31, 1861, when he addressed a letter to the Commissioner of Patents, calling attention to the case, and requesting the issue of the patent. During the interim a new Commissioner had been appointed, and changes in the rules adopted for the administration of business.

In answer to Woodbridge's last letter the Commissioner replied that the length of time he had allowed his invention to slumber was a bar to the grant of a patent, and referred to the thirty-fourth section of the printed rules, which prescribes that—

No application upon which a patent has been ordered to issue shall be retained in the secret archives more than six months from the day on which the patent was ordered to issue.

On receipt of this decision Dr. Woodbridge addressed the Commissioner as follows:

A letter from the Commissioner dated April 15, 1852, says, referring to my application, "a patent was ordered to issue thereon," and "the papers were filed in the secret archives of the office, subject to your directions as to the time of issuing the same," from which it appears to be the deliberate conclusion of the Commissioner that I should be permitted to receive my patent at such indefinite time thereafter as I might call for it.

If, therefore, it be granted that I have committed an error in leaving my patent so long uncalled for, I have certainly been led into it by the action of the office itself, and if the results should entail inconvenience on anyone the responsibility, it appears to me, must rest on the office rather than on me.

* * * * * * *

I must object to any disturbance of the decision of Commissioner Ewbank, as announced in his letter of April 15, 1852, such action being contrary to the rule of the office, which declares that "a decision deliberately made and approved by one Commissioner will not be disturbed by his successor." (See section 38 of Rules of Patent Office.) * * *

Judge Dunlop, in the case of Larrowes and Simpson's appeals, to which I respectfully refer if there should be any doubt as to the obligation of the rule, clearly expresses the opinion that the Commissioner has *no* right to reverse the decision of his predecessor.

To establish the date when section 34 of the printed rules went into operation, the House Committee on Patents of the Forty-eighth Congress, first session, under date of April 29, 1884, asked the Department of the Interior for the information, to which the Department replied as follows:

DEPARTMENT OF THE INTERIOR,
Washington, May 3, 1884.

SIR: Referring to your letter of the 20th ultimo, requesting certain information in connection with House bill 2859, for the relief of William E. Woodbridge, you are informed that the Commissioner of Patents, to whom the matter has been referred, reports that Rule 34 of the "Rules of Practice of the Patent Office" went into effect in 1854, but that the exact date can not be more accurately fixed.

A copy of your letter is inclosed at the request of Gen. McBride.

Very respectfully,

H. M. TELLER,
Secretary.

Hon. L. E. ATKINSON,
Chairman Subcommittee of Patents, House of Representatives.

The Secretary's letter shows that rule 34 of the "Rules of Practice of the Patent Office" went into force in 1854. Said rule certainly had no application to Woodbridge on the 15th of April, 1852, when Commissioner Ewbank informed Woodbridge that

A patent had been ordered to issue on his application, and that, in accordance with his request, the papers had been filed among the secret archives of the office, *subject to his directions as to the time of issuing the same.*

The Supreme Court of the United States, in the case of Campbell *v.* James, United States postmaster, decided January 9, 1882, settle the law most conclusively between the United States and its citizens on the subject of property in invention. The court says:

That the Government of the United States, when it grants letters patent for a new invention of discovery in the arts, confers upon the patentee an exclusive property in the patented invention, which can not be appropriated or used by the Government itself without *just compensation* any more than it can appropriate or use without compensation land which has been patented to a private purchaser, we have no doubt. The Constitution gives to Congress power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," which could not be effected if the Government had a reserved right to publish such writings or to use such inventions without the consent of the owner. Many inventions relate to subjects which can only be properly used by the Government, such as explosive shells, rams, and submarine batteries, to be attached to armed vessels. If it could use such inventions without compensation, the inventors could get no return at all for their discoveries and experiments. It has been the general practice when inventions have been made which are desirable for Government use either for the Government to purchase them from the inventors and use them as secrets of the proper department, or, if a patent is granted, to pay the patentee a *fair compensation* for their use. The United States has no such prerogative as that which is claimed by the sovereigns of England, by which it can reserve to itself, either expressly or by implication, a superior dominion and use in that which it grants by letters patent to those who entitle themselves to such grants.

The Government of the United States, as well as the citizens, *is subject to the Constitution* and when it grants a patent the grantee is entitled to it as a matter of right, and does not receive it, as was originally supposed to be the case in England, as a matter of grace, and favor. (104 U. S. 356, and this case is cited with approbation by Walker on Patents, p. 107.)

The decision fully supports the justice of Dr. Woodbridge's claim for compensation for the use by the United States of his invention.

Nothing seems to have been wanting on the part of the inventor to make the invention available to the Government. He early conveyed to the proper department a practical knowledge of his invention and made strenuous efforts to introduce it into service, seeking, also, Congressional aid to extend its application to guns of the largest caliber. Though the invention had appeared too early to be at once appreciated, he had made it available for all subsequent time.

Modifications of Woodbridge's projectile might be, and doubtless were, patented by others, but it is obvious that only the *modification* could be the subject of a valid patent, and that it could not in any way restrict the use of the invention in any other form. In no other way could the Government have been more fully protected against false or invalid claims for its use than by the recited acts of the inventor.

The passage by Congress of a bill for Woodbridge's relief is strongly recommended, as will be seen from the appended letters, by the honorable Secretary of War and by the Chief of Ordnance.

A bill substantially the same as that now under consideration has been favorably reported unanimously by committees of the House during the Forty-eighth, Forty-ninth, Fiftieth, and Fifty-first Congresses, which failed through lack of time.

It is evident to the committee that Dr. Woodbridge's invention was

used by the Government, and they believe that both justice and sound policy require that he be duly compensated for its use. He has thus far received no remuneration.

Such a reference to the Court of Claims as he seeks seems eminently just, and the committee unanimously report the accompanying bill with the recommendation that it pass.

APPENDIX.

WAR DEPARTMENT,
Washington City, February 2, 1884.

SIR: I have the honor to acknowledge the receipt of your communication of the 21st ultimo, inclosing H. R. 2859, being for compensation to William E. Woodbridge for the use of his invention relating to projectiles for rifled cannon and asking the views of this Department thereon.

In reply I beg to advise you that your letter, with its inclosure, was duly referred to the Chief of Ordnance, and I inclose herewith a copy of his report, of January 31, 1884, together with copies of all papers on file in his office relative to the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject by Major Mordecai, of the Ordnance Department. This report, with its inclosures, it is believed, covers all the information at the disposal of the Department upon the subject, and the views of the Chief of Ordnance as expressed in his said report are concurred in by me.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. ROBERT B. VANCE,
Chairman Committee on Patents, House of Representatives.

ORDNANCE OFFICE, WAR DEPARTMENT,
Washington, D. C., January 31, 1884.

SIR: I have the honor to return letter from Hon. R. B. Vance, chairman House Committee on Patents, requesting the views of the honorable Secretary of War on the inclosed bill (H. R. 2859) "for the relief of William E. Woodbridge," who claims compensation for the use of his invention relating to projectiles for rifled cannon, and to report.

Inclosed please find copies of all the papers on the files of this office, being reports from Col. Huger, Ordnance Department, of the trial of the Woodbridge projectile at Fort Monroe in 1850, and a report on the same subject from Maj. Mordecai, Ordnance Department. It seems plain from these papers that the invention was a novelty to these officers, both highly distinguished ordnance officers of our Army, and well acquainted with all inventions and improvements relating to gunnery.

In a pamphlet printed by Dr. William E. Woodbridge in 1852, entitled "A plan for increasing the efficiency of cannon by giving the rifle motion to cannon projectiles," he says:

"The invention, which it is the design of this paper to notice, consists in the construction and application of a ring or sabot of extensible metal to be applied to the rear of a projectile, and to be fired from a rifle-grooved gun."

And again he says, describing the sabot:

"Its rear end is grooved in order that the thinner portions may act *valvularly* to prevent the escape of the gases between it and the sides of the bore and projectile."

The object as stated, and the groove to act valvularly, would seem to embody the principles involved in most of the projectiles used since 1852, and known as the expanding. There can be no doubt that Dr. Woodbridge was first, or among the first, in this field of invention, and the passage of the bill for his relief is strongly recommended.

Very respectfully, your obedient servant,

S. V. BENÉT,
Brigadier-General, Chief of Ordnance.

The Hon. SECRETARY OF WAR.

[*Pamphlet referred to by the Chief of Ordnance in his letter to the Secretary of War, dated January 31, 1884.*]

A PLAN FOR INCREASING THE EFFICIENCY OF CANNON BY GIVING THE RIFLE MOTION TO CANNON PROJECTILES, BY WILLIAM E. WOODBRIDGE, 1852.

The effects of artillery are so far relied upon as a means of success in military operations that any improvement in cannon or their ammunition is a matter of very considerable importance.

The improvements in this department during the last fifty years have been such as greatly to enhance the efficiency of artillery, and are chiefly the result of extended experiments in Europe and this country, which have done much to remove the empirical notions formerly prevalent among artillerists, and to establish principles which will ever form a part of scientific gunnery. The attention, however, of scientific men has been mainly devoted to the improvement of the plans already in use, while those who have sought to add to the efficiency of firearms by invention too generally neglected sufficiently to consider the principles involved, or the applicability of their machines for use in the circumstances for which they are intended.

The advantage of giving to a ball a motion of rotation about its axis corresponding with the axis of the bore of the gun, or, as it is commonly called, the rifle motion, has long been known and used in small arms; and the rifle, though unused in military service until adopted by the Americans in the Revolutionary war, has now extended its use to nearly every civilized nation.

The idea of giving the rifle motion to cannon projectiles seems to have been entertained as early as the year 1774, and though many trials have been made since that time, they have hitherto (unless we except those mentioned herein) been useful rather in pointing out the true difficulties to be overcome, and in exhausting the fanciful expedients which have been proposed, than in furnishing any really feasible plan.

The design of the earlier experimenters seems to have been confined to the correction of the deviations produced by the resistance of the atmosphere and the irregular motions of rotation usually acquired by cannon balls within the gun; but the fact, long since well ascertained in relation to small arms, that an elongated ball, if projected with the rifle motion, might be made to retain the same end foremost during its flight encouraged the idea that the same might be the result in relation to cannon balls, and has given increased importance to the attainment of a practiable plan for giving them the rifle motion. It would necessarily allow the use of balls of a form much less resisted by the air than spherical balls of the same weight, and would enable us to explode shells by percussion against the object at which they are fired.

The invention which it is the design of this paper to notice consists in the construction and application of a ring or sabot of extensible metal to be applied to the rear of a projectile, and to be fired from a rifle-grooved gun.

In the accompanying drawings, Fig. 1* represents the section of a portion of the cannon through its axis, with the projectile and ring or sabot in position, A being the cannon, B the ball, and *c* the sabot.

The same view of the projectile and sabot is given in Figs. 3 and 4. Fig. 5 is an end view of the sabot. Fig. 2 is a transverse section of the cannon, showing the form and position of the grooves (*e e*), which should be equidistant. The dotted lines *e e*, Fig. 1, also show the depth of the grooves.

The projectile, which is of cast iron, is ovoid in form, pointed at the forward end. The sabot is a ring of metal softer than the projectile or cannon, and capable of extension without rupture, whose exterior surface has the form of the bore, but which is sufficiently smaller than the bore to enter the gun freely without extraordinary cleaning; and the inner surface of which fits the surface of the projectile in the rear of its greatest diameter. Its rear end is grooved, as shown in Fig. 4, in order that the thinner portions may act *valvularly* to prevent the escape of the gases between it and the sides of the bore and projectile. This sabot may be cast of a composition of zinc and tin, or of lead, tin, and copper, in iron or brass molds.

The sabot should be driven on the projectile in the laboratory, and care should be taken to see that the valvular portion of the sabot fits the projectile closely.

A suitable charge of powder is to be introduced into the gun, and the projectile and sabot placed in the position represented in Fig. 1.

The surface of the sabot exposed to the action of the gases formed by the inflammation of the powder being much greater in proportion to its inertia than that of the ball, the sabot is driven forcibly forward upon the ball so as to embrace it tightly and thus impart the rifle motion which itself receives from the grooves of the gun; and at the same time it is stretched to fill the bore of the gun completely, thus destroying the windage and causing the ball to advance strictly in the line of the axis of the bore.

*The plates are omitted from this appendix.

The change in the form of the sabot, produced by the pressure of the gases, is illustrated by Fig. 6, which is a somewhat exaggerated representation of the sabot after firing, the dotted line showing its form before firing. The degree of alteration in the form of the sabot is dependent upon the difference of the diameter of the sabot and of the bore of the gun.

The rifle motion is not by this means communicated to the projectile strictly instantaneouly, but somewhat gradually, the sabot turning a little upon the projectile during the first instants of their motion, though its hold upon the projectile is maintained so long as they receive the pressure of the gases. It is obvious that when the rifle motion is thus imparted in a *succession of instants* rather than *instantaneously*, the stress upon the projections of the sabot or grooves of the gun will be much less in any one of these short periods of time than it would be if the whole effect were produced in the same short period.

This is a peculiarity of great importance, as it obviates the great defects of the only modes of giving the rifle motion to heavy iron projectiles hitherto proposed, which are worthy of mention, namely, the attachment of projections of a soft metal to enter the grooves of the gun, and the casting of similar projections as a part of the projectile itself. The chief defect of the first of these modes is that the projections are generally stripped from their attachments by the shock to which they are exposed, and consequently the projectiles fail to take the rifle motion, and every modification of the latter mode must result in the rapid abrasion of the sides of the grooves of the gun when the projectile commences its motion, causing increased resistance to the motion of the projectile and great danger of bursting the gun.

The shells may be packed for transportation in the manner which will be understood from Fig. 7.

By permission of the Secretary of War some experiments were made in the autumn of 1850 to test the practicability of giving the rifle motion to cannon projectiles in the manner described.

The gun made use of was a bronze 6-pounder of 14 calibers length, weighing 809 pounds. It was rifled at Washington Arsenal. The shells were cast at a foundry in Washington, but owing to the want of suitable flasks for the purpose they were irregular in thickness. The experiments were made at Fort Monroe, Old Point Comfort, Va. The gun was mounted on a field carriage, and fired from a siege-gun platform.

The first three fires were made principally for the purpose of ascertaining the proper lengths to be given to the sabots. The shells had their fuse holes stopped with iron plugs. They were aimed by an officer of much skill and experience.

(1) *Firing to ascertain proper length of sabots.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*	°	*Yards.*		*Feet.*	*Feet.*
1	1	10 6	3	975	.....	18	69
2	1	10 6	3	1,089	.....	.....	.....
3	1	10 6	3	866	.....	.....	45
Mean	1	10 6	3	976	.....	44	.....

The great deviations show that the rifled motion was not properly given to the projectiles, though it is probable, from the helical course of their flight, that they made three or four revolutions on their own axis before striking.

The sabots were all recovered, and the examination proved them to have been too long.

For the next six fires the shells, which were of irregular thickness, were filled with tin, to give them as nearly as possible the character of solid shot. In accordance with the indications of the first three fires, the sabots were reduced to the length shown in Plate 4. The shells and sabots were each marked with a number and the position of the sabots on the shells was marked by corresponding lines on each.

The following table shows the result:

(2) *First six rounds with reduced sabot.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviations.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Pound.	*Lbs. oz.*	°	*Yards.*		*Ft. in.*	*Ft. in.*
1	1	11 15.7	2	834	Not found.	7 1	.....
2	1	11 13.5	2	763	Not found.	6	.....
3	1	11 11.6	2	817	1,800 yds.	.....	1 11
4	1	12 9.7	2	770	1,650 yds.	9	.....
5	1	12 9.8	2	748	1,520 yds.	.....	5 2
6	1	12 8.1	2	687	1,800 yds.	.....	5 3
Mean	1	12 8.4	2	770	1,642 yds.	3 feet 5.33 inches.	

A comparison of the deviations in this table with those of the former well indicates the result of giving the projectiles the rifle motion.

Each of the four shells found was much scratched on one side of the forward end, having struck on a gravelly portion of the beach.

The sabots were knocked off from three of them (Nos. 4, 5, and 6) at the first contact of the shell with the ground; No. 3 retained its sabot to its extreme range. The sabot was found to be driven on the shell about 0.15 inch, and rotated about 4½ degrees, sufficiently to correspond with the twist of the rifling in about 6½ inches of the bore. It is obvious that the forward motion of the shell must have exceeded this distance before it acquired a rotation corresponding with the grooves of the gun.

The sabot was stretched upon the shell so as to fill the bore of the gun, and could not be reëntered without considerable force.

It was observed by the man stationed to mark the first graze of the shells that they seemed to rise but 5 or 6 feet after ricochetting, while the horizontal distance passed over in the first bound was unusually great. The result might be expected from the small angle which the impinging surface of the shell makes with the surface of the ground, and corresponds with the great extreme range of the shells given above.

The following table gives the result of the first six fires at a target.

The target was constructed of yellow-pine timber and was 2 feet thick, its height being 10 feet and its breadth 12 feet.

The shells were each charged with 6 ounces of powder, and furnished with an experimental percussion fuse, which was designed to explode only upon receiving a severe shock. The fuses were inserted in the shells after the shells were introduced into the muzzle of the gun, requiring only to be pushed in with the finger.

The distance of the target from the gun was 600 yards.

(3) *First six rounds fired at target.*

[Distance 600 yards.]

Number.	Weight of charge.		Elevation.	Lateral deviations.	
	Powder.	Shell and sabot.		Right.	Left.
	Pound.	*Lbs. oz.*	° ′	*Ft. in.*	*Ft. in.*
1	1	9 10	1	.....	4 7½
2	1	9 5.4	1 30	(Missed to left.)	
3	1	9 10.5	1 45	(Went over in line.)	
4	1	9 15	1 30	3 0½	.....
5	1	9 13.5	1 30	.....	.....
6	1	9 13.7	1 30	1 8½	.....
Mean	1	9 8.7	.....	2 feet 4½ inches.	

The first shell being fired at too low an angle, struck the ground in front of the target and ricochetted into it, penetrating 16 inches, point foremost.

The sabot of the second shell was recovered, and was found to be pierced with a large number of small holes, communicating between its rear end and its inner surface, probably in consequence of imperfect casting.

It will be observed that the elevation of the third round was 15′ greater than that of the subsequent ones.

Nos. 4, 5, and 6 went through the target. All struck point foremost, as could be ascertained from the marks of the sabots in the holes made by the shells. Shell No. 4 was found 350 yards beyond the target. The fuse, which was extracted, was found to have been broken by the shock received in the gun.

Shell No. 5 burst 3 feet behind the target. The distance was ascertained from the marks left by its explosion on the side of a brace of the target. Shell No. 6 burst behind the target, probably about the same distance, though it could not be exactly determined.

Several rounds were subsequently fired at the target for the purpose of testing modifications of the fuse.

Three trials were made with charges of 1¼ pounds of powder (the service charge for 6-pounders) for the purpose of comparing the ranges of the shells with the ranges of 6-pound shot.

(4.) *To compare ranges.*

Number.	Weight of charge.		Elevation.	Range.		Lateral deviation.	
	Powder.	Shell and sabot.		First graze.	Extreme.	Right.	Left.
	Lbs.	*Lbs. oz.*	°	*Yds.*			*Ft. in.*
1	1¼	9 7	2	853	(*)	.....	1 11
2	1¼	9 6	2	769	(*)	.....	7 4
3	1¼	9 12	2	882	(*)	.....	8 5
Mean	1¼	9 8.3	2	834⅔	.....	.....	5 5

* Not observed.

The Ordnance Manual gives 867 yards as the mean range of the 6-pounder gun with a solid shot and 1¼ pounds of powder.

The bore of the gun was repeatedly and carefully examined with the aid of a mirror, and it received no injury until the firing of the last shell, which burst in the gun.

This shell had been twice fired through the target and was reserved as of doubtful soundness. Three indentations were made near the middle of the chase of the gun.

On comparing the results of the firing given above with those obtained with smooth-bored guns, we have to regret the want of desirable data. The tables of artillery practice given in the Ordnance Manual make no reference to accuracy of firing, and but little minute information on this particular is accessible at the Ordnance Office. I have been unable to find any table of firing corresponding nearly with the first six rounds. The following statement of practice with the French 8-pounder (about equal in caliber to our 9-pounder) from the "Aide Mémoire," 1884, probably applies as nearly as anything I have been able to obtain:

The mean lateral deviation of 100 rounds at the distance of 500 metres (547 yards) was 2.3 metres (7 feet 6½ inches), and at 800 metres (875 yards) 7 metres (22 feet 11½ inches).

The three rounds of table (4) correspond pretty nearly in distance to this last. We may make the following comparison:

	Ft.	In.
Mean deviation of French 8-pound shot at 547 yards	7	6½
Mean deviation of French 8-pound shot at 875 yards	22	11½
Mean deviation of rifled-gun shell at 770 yards	3	5½
Mean deviation of rifled-gun shell at 834 yards	5	5

Ten rounds of solid shot were fired by an officer of the Ordnance Department from a smooth-bored 6-pounder with the service charge (1¼ pounds) of powder at the same target and from the same distance as the six rounds of table (3), principally for the purpose of comparing the penetrations. Four of these shots hit the target, six missing it. The mean penetration was 16 inches. The deviations are not known.

A table was also furnished me, by the kindness of Col. Huger, of the firing of 75 rounds of 6-pound shot with the service charge, at a target 10 feet high by 20 feet wide and 600 yards distant. The lateral deviations are given in feet. The number of hits was 49, of which the average deviation was just 4 feet. The number of hits on the central 12 feet of the target (or of which the deviations are set down as 6 feet or less) was 31, their average deviation 3 feet.

We will again compare, as follows:

The proportion of hits in firing at targets 600 yards distant is, in the table furnished by Col. Huger (central 12 feet), 1 to 2.4; ten rounds (6-pound shot), 1 to 2.5; table

(3) rifled gun, 1 to 1.5. The mean lateral deviation of the above hits was, in the table furnished by Col. Huger (central 12 feet), 3 feet. Table (3) rifled gun, 2 feet 4 inches.

The following statement was the only information furnished me on application at the Ordnance Office in regard to the deviations of firing at the distance of 600 yards:

[Extract from General Orders No. 10, 1844.]

ORDNANCE OFFICE, *Washington, February 17, 1844.*

* * * Of 114 fires from field artillery (6-pounder guns and 12-pounder howitzers) at targets from 400 to 600 yards distant, there were 37 hits, rather more than one in four shots. * * *

G. TALCOTT,
Lieutenant-Colonel Ordnance.

Gen. R. JONES,
Adjutant-General, U. S. A.

The size of the target is not given, and no accurate comparison can be made. Of the whole number of shells fired at the target from the rifled gun, one-third hit the target; and their average deviation was a little less than 22 inches. Some of these shells were very defective, the best being used in the first rounds.

The superiority of the firing of the rifled gun is markedly seen in its comparative penetration.

The 6-pound shot fired with 1¼ pounds of powder penetrated 16 inches, while the shell fired with 1 pound of powder went through the target (24 inches) and still retained a great velocity, as is evident from the distance at which the shells exploded behind the target, although they were fired by percussion against it.

This advantage in regard to penetration is doubtless the result of the following causes: The prevention of the loss of the force of the powder by windage, as already explained; the decreased resistance of the air to the projectile, and lastly, the advantageous form of the shell for penetration. The effect of the first two of these causes is also seen in comparing the mean range of the three shells fired with 1¼ pounds of powder with the mean range of 6-pound shot with the same charge and at the same elevation as given in the Ordnance Manual. Although the weight of the shell exceeds that of the shot more than 50 per cent, its range lacks less than 4 per cent of being equal.

The advantages of the proposed plan over the use of ordinary smoothbored guns, if we may deduce them from the foregoing experiments, may be expressed in the following summary:

(1) The greater effective force or penetration of the projectile.

(2) The greater accuracy of firing.

(3) The ability to explode shells by percussion against the object at which they are fired.

(4) The flattened form of the ricochet, which renders ricochet firing much more destructive.

(5) The greater durability of the gun, in consequence of the prevention of the lodgments usually formed by the bounding of the ball in the bore.

(6) It will necessarily follow from the facts that the same initial velocity may be imparted to the proposed shell, and that its resistance to the air is less; that greater ranges may be obtained by the proposed plan than are possible with spherical shot.

It would be but stating the converse of these advantages to say that guns and ammunition of equal efficiency would have less weight and more transportability.

The service of the gun is rendered no more complex, and if any increase of time is required in loading it will be only in presenting the ball properly for entering the gun, and the whole time consumed in charging the gun will be much less than is always required for accurate aiming.

The importance of these advantages undoubtedly varies in different departments of service. It is probably greatest in siege, seacoast, and naval service.

In siege service great penetrative force of the shot or shells, accuracy of firing, long ranges, and transportability of guns and ammunition are all necessary in the highest degree.

The explosion of shells by percussion will probably be of greatest importance in firing against shipping. Great want of uniformity in the distance at which shells will explode when fired with the common fuses, even though perfect uniformity were attained in the time of their burning, will always occur, in consequence of the variation in the time of flight of shells fired under apparently the same circumstances; and when to this is added the difficulty of a correct estimate of distances, the probability of exploding a shell at any particular place will be seen to be exceedingly small. It is also a matter of great difficulty to lodge a shell in a ship's side, since the conditions to be fulfilled include the weight of the charge, the distance, and the angle of

the ship's side with the line of fire. In the use of percussion shells, however, the velocity most favorable to accuracy may be used, and these difficulties are entirely avoided.

The effect of the explosion of a large shell between the decks of a ship of war can hardly be anticipated. The accidental explosion of a 10-inch shell on board the English practice ship *Excellent* is stated to have put 100 men *hors du combat.*

Long ranges and accuracy of firing are eminently important in seacoast service.

The estimated importance of long ranges and great penetrative force in the naval service is evinced by the introduction of guns of heavy caliber. The decreased weight of the guns, and the diminished force of recoil consequent on the more economical use of the explosive force of the powder in producing equivalent effect, would doubtless be desirable.

With the desire that the value of the plan proposed may be fully tested by guns of heavy caliber, and compared with the unrifled cannon now in use in the various points affecting its utility in the different branches of service, Congress is petitioned for the necessary aid.

WILLIAM E. WOODBRIDGE.

DECEMBER, 1852.

[Full text of Commissioner Eubank's letter appended by Committee on War Claims, Fifty-third Congress, first session.]

UNITED STATES PATENT OFFICE, *April 15, 1852.*

SIR: Your favor of the 13th instant is received. Your application for letters patent for rifled ordnance has been examined, and on the 25th March ultimo a patent was ordered to issue thereon; and in accordance with your request, the papers were filed among the secret archives of the office, subject to your direction as to the time of issuing the same.

Yours, respectfully,

THOS. EUBANK.

W. E. WOODBRIDGE,
Perth Amboy, N. J.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 41.

THOMAS B. REED.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 3150.]

The Committee on War Claims, to whom was referred the bill (H. R. 3150) for the relief of Thomas B. Reed, reports as follows:

This claim was presented in the Fifty-second Congress and was favorably reported upon by the House Committee on War Claims, to whom it was referred. After a careful investigation of the facts involved, your committee adopt the report of the Fifty-second Congress, a copy thereof being hereto attached and made a part of this report, and recommend that the bill do pass.

[House Report No. 1192, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 6607) for the relief of Thomas B. Reed, report:

Reed served as an enlisted man in the Fifth Pennsylvania Reserve Corps Volunteers, U. S. Army, from June 5, 1861, to March 5, 1863, when he was honorably discharged for promotion and commissioned first lieutenant in said corps and served therein till June 2, 1865; next he was commissioned second lieutenant Twenty-ninth Infantry, U. S. Army, July 22, 1867, and from then to June 18, 1878, he served as a commissioned officer in the U. S. Army. During the whole time he served as such commissioned officer the following provisions of law were, respectively, in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (5 U. S. Stat., sec. 15, p. 258, act of July 5, 1838.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier-general, including chaplains and others having assimilated rank or pay, 10 per centum of their current yearly pay for each term of five years of service." (Act of July 15, 1870, now section 1262 of the Revised Statutes.)

He was paid for his services in the said intervals of time between March 5, 1863, and June 18, 1878, merely what other officers of his grade were generally paid; and he was paid or allowed nothing whatever in these two intervals of time on account of his said prior length of services in the U. S. Army as an enlisted man. For this reason he alleges he was short paid for his services rendered during these two intervals between March 5, 1863, and June 18, 1878, partially in the suppression of the late rebellion, and requests the passage of this bill, the sole object of which is to remove any statutable limitation bar that exists, or may exist, to prevent the Court of Claims from hearing and determining his demand in the premises as if it accrued within six years.

The commutation value or price thus put in controversy, of the one additional ration per diem for every five years of prior service, computes to about the sum of $600, and your committee, having fully considered the matter, can see no reason why

the question involved should not be heard and determined, as this officer requests, in the Court of Claims.

Your committee would further observe that this bill nowise asks Congress to determine the justness of this claim (which is for a balance of wages for military services rendered by a distinguished officer); it only asks Congress for what is frequently granted by it to the capitalists and property claimant, and that is, "that the claimant may go before a competent tribunal and prove the justness of his claim if he can."

The committee recommend that the bill do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 42.

CONSULAR APPOINTMENTS.

SEPTEMBER 26, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany Mis. Doc. 31.]

The Committee on Foreign Affairs, to which was referred House Resolution calling on the Secretary of State for information as to the number of consular appointments made from each State and Territory since March 4, 1893, having considered said resolution, report it back to the House with the recommendation that it be adopted.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 43.

HORSES AND OTHER PROPERTY LOST IN MILITARY SERVICE.

SEPTEMBER 26, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HERMANN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 75.]

The Committee on War Claims, to whom was referred the bill (H. R. 1759) to extend the time for filing certain claims for horses lost in the service, etc., report as follows:

This bill provides that the statue of limitations enacted January 9, 1883, shall not be deemed to prohibit the receiving and adjudication of claims for compensation for property lost in the military service of the United States, when such loss is a matter of record in any official record in the custody of the War or Treasury Departments, which has been filed and certified to by the proper officer prior to January, 1870, provided that the classes of property referred to shall be such only as for which compensation has been authorized by now existing laws.

The first section of the act of January 9, 1883, which is referred to in the bill, extends the time for filing claims for horses and equipments lost by officers and enlisted men in the military service of the United States, which expired by limitation December 31, 1875, one year from the passage of the act; the second section of said act of January 9, 1883, extends the time for filing all claims arising under the act of March 3, 1849, entitled "An act providing for the payment of horses and other property lost or destroyed in the military service of the United States, and all acts amendatory thereof," one year from the passage of the act.

The committee are of opinion that the bill is just, especially as its provisions exclude all classes of property other than those for the loss of which compensation has been authorized by now existing laws. Your committee herewith append a report on the same subject made by the Committee on War Claims of the Forty-seventh Congress, which is full and exhaustive and the reasoning of which the committee are of opinion is fully as applicable now as when the same was made. Your committee therefore report the bill to the House and recommend its passage.

[House Report No. 1355, Forty-seventh Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 419) to extend the time for filing claims for horses and equipments lost by officers and enlisted men in the service of the United States, and for other purposes, having had the same under consideration, respectfully submit the following report:

From a very early period in the history of our Government, dating back of the present century, it has been the policy of Congress to provide payment for horses and

equipage lost in the military service. The first law ever passed on this subject is dated May 12, 1796 (Statutes at Large, vol. 1, p. 463), and is, by its terms, to have a retrospective operation to the 4th of March, 1789, the day the Constitution of the United States first took effect. For the next fifty years Congress continued to pass laws of the most liberal character on this subject, eighteen in all (not counting private acts), which can be found by those desirous of pursuing the subject in the Statutes at Large, vol. 1, p. 558; vol. 2, pp. 420, 705; vol. 3, pp. 261, 397, 466, 676; vol. 4, pp. 70, 613, 726; vol. 5, pp. 142, 288, 358, 414, 511, 648, 673; vol. 9, p. 154. There is no need, however, here to review the provisions of these various acts, and they are only here referred to as indicating the policy of the Government in this class of cases; for a number of these statutes are acts reviving and extending former acts which had expired by limitation, precisely as it is proposed by the pending bill to extend an existing limitation which was originally far too short.

These laws, however, were all superseded by an act approved March 3, 1849, and entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States." (Stat. L., vol. 9, p. 414.) This act operated retrospectively to the 18th of June, 1812, thus including the whole of the second war with Great Britain, and reopening the doors to all claims which would have been valid under former laws, but which had not yet been presented. Its operation is also prospective, and it was in force during the whole of the late rebellion. It provides by its first section—

"That any field or staff, or other officer, mounted militiaman, volunteer, ranger, or cavalryman engaged in the military service of the United States since the 18th of June, 1812, or who shall hereafter be in said service, and has sustained, or shall sustain, damage without any fault or negligence on his part while in said service (1) by the loss of a horse in battle, or (2) by the loss of a horse wounded in battle, and which has since died or shall die of said wound, or, being so wounded, shall be abandoned by order of his officer, and lost, or (3) shall sustain damage by the loss of any horse by death or abandonment, because of the unavoidable dangers of the sea, when on board an United States transport vessel, or (4) because the United States failed to supply transportation for the horse, and the owner was compelled by the order of his commanding officer to embark and leave him, or (5) in consequence of the United States failing to supply sufficient forage, or (6) because the rider was dismounted and separated from his horse, and ordered to do duty on foot at a station detached from his horse, or (7) when the officer in the immediate command has ordered, or shall order, the horse turned out to graze in the woods, prairies, or commons, because the United States failed or shall fail to supply sufficient forage, and the loss was or shall be consequent thereof, or for the loss of necessary equipage, in consequence of the loss of his horse, as aforesaid, shall be allowed and paid the value thereof, not to exceed $200."

The second section provides for cases of loss by citizens whose property is in the military service by impressment or contract, and the remainder of the act is devoted to the details of its execution and some miscellaneous provisions which we need not consider here, but which may be seen by reference to the statute book. (Stat. L., vol. 9, p. 414; Rev. Stat. §§ 3482 *et seq.*)

It will be observed that this act allows payment only for losses happening from certain specified causes and none others. Neither is there any limitation prescribed as to the time for presenting claims. Claims could be filed at any time. In 1874, however, Congress passed an act amendatory of the act of 1849 above quoted, which directed that—

"Payment in any case shall not be refused where the loss resulted from any exigency or necessity of the military service, unless it was caused by the fault or negligence of such officers or enlisted men.

"SEC. 2. That no claims under said section,* or this amendment thereto, shall be considered unless presented prior to the 1st day of January, 1876.

"Approved, June 22, 1874."

This act of 1874 in the first place did away with the limited specification of cases in the act of 1849, and opened the way for the payment of losses of horses in such cases as losses by overheating, hard usage on forced marches, snagging, theft by deserters or camp followers, and every other instance of loss incident to the service. Many claims reached by this act were every whit as meritorious as cases of loss from the seven specific causes named in the act of 1849 (*supra*). They had never been presented, however, before 1874, because they had not been provided for by law. It was only reasonable to expect that, justice having been so long delayed them through no fault of their own, ample time would have been given them to file their claims. Yet in the second section of the act above quoted we find a limitation giving them only to the close of 1875—one year and a half—to get in their claims; while, as if to complete

*I. e., section 1 of the act of 1849, providing for soldiers' claims.

the injustice, this limitation was confined wholly to claims of officers and soldiers, and did not extend to claims of citizens, under section 2 of the act of 1849, for horses and other property impressed into the service and lost, which latter class of claims may still be filed even up to the present day. When it is considered that the great mass of the cavalry soldiers who furnished their own horses now live in the remote agricultural regions of the country, away from the centers of information, and with but scant opportunities of acquainting themselves with late statutes or other proceedings of Congress, the injustice of so short a limitation will be at once apparent.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 44.

FRANCIS M. TOMLIN.

SEPTEMBER 27, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 1127.]

The Committee on the Public Lands having had under consideration the bill (H. R. 1127) for the relief of Francis M. Tomlin report the same back with the recommendation that it pass.

The facts are as follows:

Mr. Tomlin made his homestead entry January 17, 1880, and it was canceled for failure to make final proof within the statutory period on June 23, 1887. Under the advice of the local land officers, that he could not prove up the homestead entry, he purchased the land under section 2, act of June 15, 1880, and patent issued therefor April 5, 1890. He paid for the land $186, which was $1.25 per acre, less the office fees.

He petitioned to have his homestead entry reinstated and thereafter be permitted to make five years' proof, alleging that he was qualified to do so at the date of his purchase, but was erroneously advised by the register that the only way for him to obtain title to his homestead would be by applying for the benefit of the act above mentioned. This petition was transmitted by the district officers in letter of October 20, 1890, and was denied October 30, 1890, for the reason that title to the lands covered by Tomlin's purchase had passed from the Government, therefore the General Land Office had no jurisdiction in the matter.

The claimant has resided upon and cultivated the land in question since his homestead entry and is still the owner of it. It is perfectly clear from the proof on file that the settler, in good faith, entered the land for a home; that he was qualified to enter; and that he has fully complied with the homestead laws as to settlement, cultivation, and non-alienation; and that he was misled by the register of the Camden land office when he applied to make final proof. Having earned the land under the homestead law the committee believe that he should have refunded to him the money paid under the erroneous advice of the register.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 45.

MASSACHUSETTS AVENUE.

SEPTEMBER 27, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. HEARD, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. Res. 32.]

The Committee on the District of Columbia, to which was referred the joint resolution (H. Res. 32) declaring Massachusetts avenue through the grounds of the Naval Observatory a public street, has carefully examined the same, and respectfully recommend that it do pass.

The last Congress appropriated the money to pay for grading the avenue through the Government reservation referred to, but did not, in formal terms, dedicate the right of way over the same. This bill is to cure that defect in the law.

OFFICE OF THE COMMISSIONERS
OF THE DISTRICT OF COLUMBIA,
Washington, September 23, 1893.

DEAR SIR: The Commissioners recommend early and favorable action upon Joint Resolution No. 32, "declaring Massachusetts avenue through the grounds of the Naval Observatory a public street," which was referred to them by you on the 9th instant for their views. The Commissioners' reasons for this proposed legislation were presented in a letter to your committee under date of the 7th instant, and still apply.

Very respectfully,

JOHN W. ROSS,
President Board of Commissioners, District of Columbia.

Hon. JOHN T. HEARD,
Chairman Committee on the District of Columbia.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 46.

LINCOLN, NEBR.

SEPTEMBER 27, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COX, of Tennessee, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 23.]

The Committee on Claims, to which was referred House bill 23, having carefully considered the same, do hereby report it back with the recommendation that it do pass.

The bill provides for the repayment to the city of Lincoln of $11,519.30, or so much thereof as may be necessary, the same having been advanced by the city of Lincoln for paving around the Government square in said city. The cost of paving in the State of Nebraska is assessed against the property on either side of the street.

The United States Government received as a gift the block of ground upon which the Lincoln public building stands. That ground unimproved is now worth more than twice the amount expended by the Government on the public building, and the value of said ground has been increased by the pavement of adjacent streets. The money properly chargeable to the United States Government is shown by affidavit of the mayor, treasurer, and engineer of the city of Lincoln to be $11,519.30, which amount, without interest, the committee thinks should be repaid since the Government has received the benefits, and its property is not subject to local taxation and assessment.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 47.

ACTION OF TROOPS IN THE CHEROKEE STRIP.

SEPTEMBER 28, 1893.—Ordered to be printed.

Mr. LAPHAM, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the House resolution, submitted by Mr. Flynn, September 19, 1893, calling on the Secretary of War for certain information concerning the action of troops in the Cherokee Strip, respectfully report that they have had the same under consideration, and find that various charges are made in many newspapers, published in sections of the country adjacent to the Cherokee Strip, against soldiers of the Army respecting their treatment of civilians entering the Strip on the 16th day of the present month, and that indignation meetings have been held in neighboring localities, denouncing alleged murders and outrages by United States troops.

Your committee have had little opportunity to investigate the facts embraced in such allegations, owing to the limited time allowed under the rules for a report, and are not able to express any opinion upon their correctness, but they regard the gravity of the charges, and the extent of their circulation, sufficient to warrant the attention of the House for the purpose of allaying excitement and removing misapprehension in case the charges are groundless or otherwise to expose the guilty, if guilt exist.

Your committee therefore recommend the adoption of the accompanying substitute resolution:

Resolved, That the Secretary of War be requested to report to the House what part the Army of the United States had in the opening of the Cherokee Strip on September 16, 1893, and under what orders it acted, and whether said orders were violated, and whether any outrages were committed by the troops upon any civilians entering said strip.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 48.

ADDITIONAL CLERKS, HEALTH DEPARTMENT, DISTRICT OF COLUMBIA.

SEPTEMBER 29, 1893.—Ordered to be printed.

Mr. COMPTON, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany S. 721.]

The Committee on Appropriations, to whom was referred the bill (S. 721) to authorize the Commissioners of the District of Columbia to appoint two additional clerks, having considered the same, recommend its passage, amended as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That of the additional emergency fund of twenty-one thousand dollars provided for in the District of Columbia appropriation act approved March third, eighteen hundred and ninety-three, the Commissioners of the District of Columbia are hereby authorized to use, during the fiscal year eighteen hundred and ninety-four, not exceeding two thousand dollars for the employment of clerks in the health department, at rates of compensation not exceeding one hundred dollars per month each while actually employed.

Amend the title so as to read:

An act to provide for clerical assistance in the health department of the District of Columbia.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 50.

CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS.

OCTOBER 3, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BAILEY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 34.]

The Committee on the Judiciary, to which was referred House Resolution 34, respectfully report that it has had said resolution under consideration and recommend that the same be adopted.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 51.

WILLIAM McGARRAHAN.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PENDLETON, of West Virginia, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany H. R. 415.]

The Committee on Private Land Claims have had under consideration the bill (H. R. 415) "to submit to the Court of Private Land Claims, established by an act of Congress approved March 3, 1891, the title of William McGarrahan to the Rancho Panoche Grande, in the State of California, and for other purposes," and, adopting the report of the Senate accompanying the same, recommend the passage of said bill.

SENATE REPORT.

The Committee on the Judiciary, to whom was referred the bill (S. 341) "to submit to the Court of Private Land Claims, established under an act of Congress approved March 3, 1891, the title of William McGarrahan to the Rancho Panoche Grande, in the State of California, and for other purposes," submit the following report:

The subject-matter of this bill has been before Congress for twenty-five years, while the controversy over the title to the lands in question extends over ten years more of time in the courts and in the Executive Departments. Thus the question involved has remained unsettled for over a quarter of a century, and Mr. McGarrahan, the beneficiary of this bill, has been left all this time uncertain as to his rights, though anxious to have them determined. The present bill provides that the controversy over the ownership of the Rancho Panoche Grande shall be referred to the Court of Private Land Claims for determination of the title of the same, and your committee are of opinion that in justice to all concerned the bill should be passed and this disposition made of the matter.

ATTEMPTED LEGISLATION.

Numerous bills for Mr. McGarrahan's relief, some of them providing for the reference of the subject to the Court of Claims and others for the absolute confirmation of the title in Mr. McGarrahan without further litigation, have been introduced in the Senate and the House of Representatives, and such bills have passed four different times in the House.

During the Fifty-second Congress a bill for Mr. McGarrahan's relief passed both the Senate and the House, but was vetoed by the President for technical reasons. After the veto was filed a second bill was introduced in the Senate, and after receiving the careful attention of the Judiciary Committee was amended so as to make the

measure conform to the President's objections and reported back to the Senate and passed again—twice during one Congress.

This second bill did not, however, reach the House of Representatives until the day of adjournment, too late for consideration by that body. The present bill is a copy of the second bill of the Fifty-second Congress, and the committee is of opinion that it should become a law.

Although nominally carried on between William McGarrahan on the one side and the United States on the other, the real contestant of McGarrahan's title has been the New Idria Mining Company. That company came into possession of the New Idria quicksilver mine about the time McGarrahan purchased the tract of land, and has held possession ever since. The main question to be decided is whether Vicente P. Gomez, under whom McGarrahan claims, had such a title to the land as was protected by treaty with Mexico, commonly known as the treaty of Gaudalupe Hidalgo. If he did, then the faith of the Government is pledged to its protection.

The claim first came before Congress during the first session of the Fortieth Congress, and was referred by the House of Representatives to the Committee on the Judiciary. Mr. James F. Wilson, the chairman of the committee, during the second session of that Congress submitted a report containing an impartial statement of the facts and of prominent proceedings in the matter, as follows:

[Report No. 33, Fortieth Congress, second session.]

The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:

The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee—that of information to its members.

It has, therefore, been deemed advisable to exhibit leading and controlling facts, rather than minute and unimportant particulars.

The effort has been to give the present paper a synoptical rather than argumental character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquirers that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks, and to the land in question, as described in his original memorial, presented to the House during the Thirty-ninth Congress.

In the year 1844, Manuel Micheltorena, the then governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vincent P. Gomez a tract of land then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then and is now known as "Panoche Grande Rancho."

The making of the grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commanding general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grande.

II. The petition of Gomez to Governor Micheltorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimino, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajiola, employed in the Presidial Company of Monterey in 1848, showing that Gomez applied to him to make a map of the ranche; exhibited to him the title paper duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that, in 1845,

he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which these papers were passed into the possession of the American Army July 7, 1846.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Barque, stating that Gomez, in 1845, showed him title papers for the rancho, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, stating that Gomez, in 1841, applied to him for stamped paper, to be used in procuring a title to lands; and that, in 1845, he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

XII. The affidavit of Matias Moreno, secretary of state of Upper California, stating that, in 1846, he knew Gomez had obtained a grant for Panoche Grande, and that he saw the grant.

XIII. The affidavits of Maricio Gonzales, José Fernandez, Gabriel de la Torre, Joaquin S. Escamilla, and others, tending to prove the existence of the grant.

XIV. The statement of E. L. Goold, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Goold was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Micheltorena, in the year 1844, to Don Julian Ursua, of the tract known as the rancho "La Panoche de San Juan and Los Carrisalitos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grande."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the years 1847-'48-'49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican Government.

XVII. In 1845 the board of land commissioners, at the hearing on the evidence, as required by the laws of the United States, decided that Gomez had given satisfactory proof of the existence and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and Mexico February 2, 1848, it was provided that property of every kind belonging to Mexicans should be inviolably respected, and that the United States should pass such laws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This feature was introduced to secure all landed and other interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty (Stats. at Large, vol. 9, pp. 229-231).

2. The law contemplated was passed March 3, 1851 (United States Statutes at Large, vol. 9, p. 631), creating a board of land commissioners, and declaring, among other things, "that each and every person claiming lands in California, by virtue of any right or title derived from the Spanish or Mexican Government, shall present the same to the said commissioners, when sitting at a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claim; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and within thirty days after the said decision is rendered to certify the same with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered" (sec. 8).

3. Februasy 9, 1853, Gomez, in accordance with the provision of the act of March 3, 1851, presented his petition to the Board of Land Commissioners, praying a confirmation of his claim to the rancho Panoche Grande.

4. The board, having fully heard the evidence of the grant, decided that the claimant had given satisfactory proof of the existence and loss of the grant, but had failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that anyone ever did for him, or that he ever saw the land; and on the ground of nonoccupancy decided the grant invalid.

5. In the case of Frémont *v.* The United States (17 Howard, 542), decided at December term, 1854, the Supreme Court of the United States held that, in the case of Mexican land grants, omission to take possession of the land did not of itself forfeit the right or grant. Had this determination preceded the action of the board of land commissioners, the grant to Gomez would certainly have been pronounced valid, as

the board decided against the grant on the ground that the grantee had not entered upon and possessed himself of the land granted.

6. The decision of the board of land commissioners made an appeal necessary, which was accordingly taken by Gomez, and June 5, 1857, the district court for the southern district of California confirmed his claim, and a decree to that effect was pronounced. But through what is claimed to have been a clerical mistake, and which the party asserts was unobserved for some months, the decree was for three leagues of land instead of four, as claimed, and as proved by the deposition of José Abrigo used before the board of land commissioners, and in the court, to have been comprised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested might well have supposed, the question of title was settled, subject, of course, to the right of appeal. The records of the district court presenting Gomez as owner of the rancho in accordance with the finding of the board of land commissioners, the decree of the said district court, and the decision of the highest court in the Frémont case, Mr. McGarrahan, December 22, 1857, bought the property from Gomez in good faith, and for a valuable consideration.

8. The alleged error in the quantity of land stated in the decree of June 5, 1857, being discovered, an application was made to the court to correct it, whereupon, February 8, 1858, an amended decree was entered *nunc pro tunc* (that is, as of June 5, 1857), covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez some persons, having prospected the land, discovered mineral deposits (a fact unknown to Mr. McGarrahan when he purchased), and finding it had been sold by Gomez, they as "squatters," took possession of and held it, as they still hold it, either in person or by assignees, cognizant of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, as it seems was their practice to do in all cases adjudicated against them, and on July 8, 1858, thirteen months after the final decree of confirmation, a motion was made by special counsel of the United States in the case, as it seems, without notice to the claimant, to have the decree opened.

11. Mr. McGarrahan, having been advised that the appeal to the Supreme Court had been taken by the Government, without examination as to its merits, in accordance with the uniform practice, made application through counsel to Hon. Jeremiah S. Black, the then Attorney-General (a certified transcript of the case being presented to him), to have him examine the case and determine whether he would persist in the appeal.

12. After a full argument before the Attorney-General, that officer directed that the appeal should be docketed and dismissed; and on January 31, 1859, it was so entered upon the books of his office and upon the records of the Supreme Court. Whereupon, in March, 1859, the Supreme Court issued its mandate, which ordered and decreed the docketing and dismissal of the appeal entered in the Supreme Court, and commanded that "such proceedings be had in said case as, according to right and justice and the laws of the United States, ought to be had."

13. The said mandate was filed in the district court May 4, 1859, whereupon the court ordered, adjudged, and decreed that the said mandate should be carried into effect, and that the said Gomez proceed under the decree of the court as under a final decree.

The effect of this was to perfect the title to said rancho in Mr. McGarrahan, as the grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer consulted by client, and required to examine records, could have given no other opinion upon the state of the records than that a fee-simple interest in the rancho was vested in Mr. McGarrahan.

From this time the parties occupying the property, without title or rightful claim, resorted to divers expedients to defeat McGarrahan's title; accordingly the "squatter's" interest, so called, which vested in the New Idria Mining Company, appealed to controlling officers of the Government. This is shown by the following facts:

1. A consultation between Mr. E. L. Goold, counsel for the "squatters" upon the property alluded to, with the Attorney-General, and immediately thereafter that officer making a motion in the Supreme Court to recall the mandate before spoken of on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact that a conveyance of an undivided half interest in the property had been made by Gomez to Pacificus Ord, then representing the United States as district attorney, and that he had consented to the propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to the office he held, not only revealed to the Government the fact that he was interested in the claim, but requested the Government to employ other counsel to attend to its interests.

4. This the Government did not do; the consequence of which was that Mr. Ord, at the time of the original decree, having no evidence militating against the validity

of the grant, acquiesced in its confirmation; and, so far as this committee can discover, the representation then made by Mr. Ord was in accordance with facts.

5. At this point in the proceedings it appeared that some influence, unknown to the committee, had caused the file-marks and indorsements on the final order of the district court, made in obedience to the mandate of the Supreme Court, to be erased from the record, as well as the filing of the mandate itself. This seems to have been done on the 18th of January, 1860, more than eight months after the order had been filed. It also appears that certain entries in the books of the Attorney-General's Office respecting the original appeal in this case, and the action of the Government in other appeals, embraced in the same order, were not known to the court or to McGarrahan's counsel in time for them to avail themselves of the benefits thereof, on the hearing of the case in the Supreme Court, on motion by the Attorney-General to revoke the mandate. It will be remembered that it was upon the conclusive evidence of his order that the Supreme Court had directed the proper entry to be made upon their record, and that their mandate was issued.

6. This failure to disclose the facts to the court, by the Government, undoubtedly had much to do in securing the order of the Supreme Court revoking their mandate of 1859, and which order was strangely withheld until June, 1862, when it was filed by the present claimant for the purpose of again lodging jurisdiction of the case in the court below.

7. But in the meantime (March 21, 1861) the district court annulled its original decree. This extraordinary action on the part of the court seems to have been taken without notice, either to the claimant or his known counsel, and in the absence of both.

8. As soon as this condition of things was ascertained, an application was made to the court to restore the decree, and, upon full hearing, the order, as requested, was made on the 4th August, 1862.

9. Thus matters rested until the 25th August, 1862, when the then district attorney, contrary to express stipulations, entered into between himself and the counsel for the claimant, in their absence, and without notice, obtained an order of appeal to the Supreme Court.

10. The impropriety of this proceeding is made apparent for the reason that, in order to give the Supreme Court jurisdiction, a citation should have been first issued, signed by the judges, served on the claimant, and from return made, with proof of service.

11. The law is very clear upon this point; the acts of 1789 and 1803, which regulate appeals (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years, as directed by the statutes), demanded a notice to the opposite party, and the proceeding was therefore clearly wrong. The court, upon a full hearing, reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts that Mr. McGarrahan was the legal owner of the Rancho Panoche Grande, the aggressors upon his rights resorted to a new line of action.

1. As seen, after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations of his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor-general of California for a survey of the said tract of land, and which officer caused the survey to be made and approved September 11, 1862. This survey was transmitted immediately thereafter to the General Land Office, and a patent for the property was demanded.

2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time (Hon. Caleb B. Smith), after argument in the case, ordered the patent to issue.

Thus, again, for the third time, the title to the Panoche Grande was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. The neglect, or refusal, was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time, the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case, and determine it upon its merits. This he consented to do. Printed briefs were laid before him; and, upon full consideration

of all the facts and circumstances, he directed the Secretary of the Interior to cause a patent to be issued to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property or rancho, and that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out; but, for reasons not fully explained, never delivered to him for signature.

To recapitulate:

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. The district court of the United States for the southern district of California confirmed the grant.

3. The Attorney-General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.

4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.

6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation (June 5, 1857) and the President's action on the case (in the fall of 1863), it will be observed, over six years had elapsed, and, in consequence of the lapse of time, an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney-General's office in Washington, D. C., forwarded to the district attorney in California, certified by him out of his district, without comparison with the record and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

Notwithstanding the Supreme Court refused to strike off the appeal taken in the manner indicated, a new transcript was obtained, 1865, from the clerk of the district court, and filed at December term, 1865, eight years and a half after the decree of the district court confirming the title was first pronounced, and more than three years after the period had elapsed within which the law allowed an appeal to be taken in the case, unless some exception takes it out of the limitation. Upon this appeal the Supreme Court, in March, 1866, decided the case against the claimant, and thus matters now stand.

The committee have bestowed a great deal of time and labor upon this case in order to arrive at its real facts and merits. The claimant and the parties resisting his claim have been heard patiently and at great length.

In presenting the conclusion at which the committee have arrived they do not wish to be understood as undertaking to review or reverse the action of the Supreme Court relative to the case. Under and by virtue of the right of petition the claimant has presented his case to Congress, and the House of Representatives directed this committee to inquire into the grounds of his complaint. This has been done. Many facts have been presented to the committee which were not placed before the court. Additional evidence has been submitted and circumstances disclosed which have induced your committee to conclude that the relief prayed for by Mr. McGarrahan ought to be extended to him; and this may very readily be done. The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a corporation known as the New Idria Mining Company, which has been resisting his claim for years and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the property in good faith, and for a valuble consideration, when it was regarded as of but little value. His interests have been attacked and his title resisted nominally by the United States, but really by the New Idria Mining Company. The name of the United States, their officers and money, have been used to resist his claim, and all to the end that this property, valuable as it now undoubtedly is, may pass into the hands of parties who are wholly unknown to the records of the proceedings had in the courts of the United States respecting the title to the land in question through all its years of transit from

the board of land commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the case is stated as follows:

"The real parties who contested the grant were your memorialists, for against them only were the efforts of the owners of the 'Panoche Grande rancho' directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the 'Panoche Grande' are now seeking Congressional interference in their behalf. It may well be doubted whether the 'Panoche Grande' would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

This extract shows that the United States have no interest as between these parties beyond that of preserving its faith as pledged in the treaty made between this Government and that of Mexico. And as to the allegation of robbery, etc., made by said company, it may be remarked that one of its stockolders, of large interest, testified before the committee that after paying all of the expenses of said company, including every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases of an analogous character. The following are referred to.

I. The Soscol act, 12 U. S. Stats., p. 808.
II. The Bolsa de Jomales act, 13 U. S. Stats., p. 136.
III. Ex-Mission San José act, 13 U. S. Stats., p. 534.
IV. Laguna de Santos Calle act, 13 U. S. Stats., p. 372.
V. Baron de Bastrop act, 9 U. S. Stats., p. 597.

In addition to which we have the act of June 21, 1860, and the act of March 1, 1861.

In view of all the facts developed in the case and believing that justice and equity demand that the relief prayed for by the claimant be extended to him, the committee recommend the passage of the bill herewith reported.

The bill, as recommended by the committee at that time and in the above report, passed the House of Representatives in the Fortieth Congress on the 15th day of May, 1868, after debate. (See Congressional Globe, Vol. 97, p. 2479.) The bill as it passed the House confirmed the grant to William McGarrahan, as surveyed by the United States surveyor-general for the State of California.

The bill, when it reached the Senate, was referred to the Committee on Private Land Claims. The committee reported adversely to the bill, and on the 25th day of July, 1868, the last evening of the session, the bill was called up and indefinitely postponed. At the next session, to wit, on the 20th day of January, 1869, Mr. Morton called up the bill for reference, which motion prevailed by a vote of 27 yeas to 18 nays, after a discussion which consumed a portion of several days, during which the circumstances under which the bill had been indefinitely postponed were fully brought to the attention of the Senate. The bill was recommitted to the Committee on Private Land Claims. It was reported back to the Senate on the 24th day of February, 1869, two of the committee being favorable, two adverse, and one refusing to take any part in the decision. The bill was not further considered during that Congress.

The existence of what is claimed to be a record of a patent in the General Land Office to McGarrahan was brought to his attention about the 6th day of July, 1870, at which time his claim was pending before the Committee on the Judiciary of the House of Representatives of the Forty-first Congress. He notified the committee of the discovery, and the committee on the 6th day of July, 1870, through its chairman, Hon. John A. Bingham, called upon the Department of the Interior for the volume of the records containing the same. The volume was produced and the record inspected by the committee. On the 14th day of July, 1870, an authenticated copy of the record was called for by the chairman of the committee. The copy was not furnished until the 26th day of July, 1870, the record in the meantime, to wit, on the 25th day of July, 1870, having, it is claimed, been mutilated.

A majority of the Committee on the Judiciary reported adversely to the claim, but the chairman of the committee, Hon. John A. Bingham, and Hon. Charles A. Eldridge, a member of the committee, reported a joint resolution providing "that the patent should be transcribed into the records as it stood, without any mutilation or erasure," and authorizing and requiring the President to do in the premises whatever was just and equitable, without regard to any action or proceeding had subsequent to the 14th day of February, 1863, the date of the patent. This joint resolution was passed by the House on the 20th day of February, 1871. It was sent to the Senate, but not considered.

The House of Representatives of the Forty-third Congress passed a resolution requesting the Commissioner of the General Land Office to institute proceedings against the New Idria Company, but the Commissioner refused to bring the suit, and reported his refusal to the House. (See Ex. Doc. 180, Forty-third Congress, second session.)

The "sundry civil bill" for the year ending June 30, 1876, contained a clause authorizing the Secretary of the Interior to cause an examination to be made for the purpose of ascertaining whether any person, firm, or corporation was occupying any larger portion of said tract of land than was authorized by the laws relating to mining lands, and to make report thereof to Congress. (See Ex. Doc. 11, Forty-fourth Congress, first session.)

A majority of the Committee on the Public Lands of the House of Representatives of the Forty-fifth Congress reported a bill referring the whole case to the courts for a rehearing, without reference to any decisions of the courts previously rendered, but the bill was not acted on by the House.

A majority of the Committee on Private Land Claims of the House of Representatives of the Forty-sixth Congress reported adversely to a similar bill reported by the Committee on the Public Lands of the Forty-fifth Congress, but suggested that the decisions of the Supreme Court, adverse to the validity of this claim, are erroneous, and McGarrahan's title was originally valid; that "his only remedy" was by "direct act of Congress confirming his title to so much of said land as had not been legally disposed of by the Government, and the payment to him in money or other land of an amount equal in value to so much of the same as the Government had parted title with to innocent purchasers." (See House Report No. 29, third session, Forty-sixth Congress.) A bill was thereupon introduced in the House in accordance with this suggestion of the committee providing for the confirmation of the grant and the payment to McGarrahan of an amount in money equal to the value of so much of said grant as had been disposed of. The committee, on the 17th day of February, 1881, reported the bill favorably, with an amendment providing that compensation should be made in other land instead of money for so much of said land as the Government had parted title with; but this bill was never considered by the House. (See House Report No. 273, Forty-sixth Congress, third session.)

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow, from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

In the Forty-eighth Congress a similar bill was considered by the Judiciary Committee of the House of Representatives and reported adversely, several members of the committee submitting views in favor of the passage of the bill, but no action was taken by the House.

There were also favorable reports upon the bill from the Committees on Mines and Mining of both the Senate and the House of Representa-

tives in the Forty-ninth, Fiftieth, and Fifty-first Congresses, though the bill was not taken up in either House during any of these three Congresses. The proceedings in the Fifty-second Congress have been set forth in the introductory remarks to this report.

IN COURT.

Your committee, with the end in view of presenting this matter to the Senate as fully as may be convenient, begs to submit in this connection the filing of the mandate of the United States Supreme Court and final order thereon in the United States district court directing it to be carried into effect, and erasures of same from the records of the United States district court more than eight months after they were filed, as follows:

Mandate of the Supreme Court of the United States.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the district court for the southern district of California, greeting:

Whereas lately in the district court of the United States for the southern dist. of California, before you, in a cause between Vicente P. Gomez, appellant, and the United States, appellees, wherein a decree was rendered in favor of the said appellant, whereupon the said appellees prayed an appeal, which was allowed by the said district court, to remove the said cause to the Supreme Court of the United States, as by the inspection of the transcript of the record of the said district court, which was brought into the Supreme Court of the United States agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears.

And whereas in the present term of December, in the year of our Lord one thousand eight hundred and fifty-eight, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and it appearing that the appellants (the United States) have failed to have their cause filed and docketed in conformity to the rules of this court, it is now here ordered and decreed by this court that this appeal from the district court of the United States for the southern district of California be, and the same is hereby, docketed and dismissed, and that this cause be, and the same is hereby, remanded to the said district court. Jan. 31st.

You therefore are hereby commanded that such proceedings be had in said cause as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwitstanding.

Witness the honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-eight.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Erased: [Filed May 4th, 1859.] C. SIMS, *Clerk.*]
The above erasure made Jan'y 18th, 1860.

C. SIMS, *Clerk.*

In the district court of the United States for the southern district of California.

VICENTE P. GOMEZ, APPELLANT,
vs.
THE UNITED STATES, APPELLEES.

And now comes Vicente P. Gomez, appellant herein, and files in open court the mandate of the Supreme Court of the United States, held on the 1st day of December, 1858, and rendered herein. Whereupon it is by the court ordered, adjudged, and decreed that the said mandate be carried into effect, and that the said Gomez proceed under the decree of this court heretofore rendered as under a final decree.

This done and signed in open court this May, A. D. 1859.

Erased: [Filed May 4th, 1859.] C. SIMS, *Clerk.*

Above erasure made January 18th, 1860.

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A majority of the Committee on the Judiciary reported adversely to the claim, but the chairman of the committee, Hon. John A. Bingham, and Hon. Charles A. Eldridge, a member of the committee, reported a joint resolution providing "that the patent should be transcribed into the records as it stood, without any mutilation or erasure," and authorizing and requiring the President to do in the premises whatever was just and equitable, without regard to any action or proceeding had subsequent to the 14th day of February, 1863, the date of the patent. This joint resolution was passed by the House on the 20th day of February, 1871. It was sent to the Senate, but not considered.

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tives in the Forty-ninth, Fiftieth, and Fifty-first Congresses, though the bill was not taken up in either House during any of these three Congresses. The proceedings in the Fifty-second Congress have been set forth in the introductory remarks to this report.

IN COURT.

Your committee, with the end in view of presenting this matter to the Senate as fully as may be convenient, begs to submit in this connection the filing of the mandate of the United States Supreme Court and final order thereon in the United States district court directing it to be carried into effect, and erasures of same from the records of the United States district court more than eight months after they were filed, as follows:

Mandate of the Supreme Court of the United States.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the honorable the judges of the district court for the southern district of California, greeting:

Whereas lately in the district court of the United States for the southern dist. of California, before you, in a cause between Vicente P. Gomez, appellant, and the United States, appellees, wherein a decree was rendered in favor of the said appellant, whereupon the said appellees prayed an appeal, which was allowed by the said district court, to remove the said cause to the Supreme Court of the United States, as by the inspection of the transcript of the record of the said district court, which was brought into the Supreme Court of the United States agreeably to the act of Congress and the rules of the said Supreme Court in such case made and provided, fully and at large appears.

And whereas in the present term of December, in the year of our Lord one thousand eight hundred and fifty-eight, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and it appearing that the appellants (the United States) have failed to have their cause filed and docketed in conformity to the rules of this court, it is now here ordered and decreed by this court that this appeal from the district court of the United States for the southern district of California be, and the same is hereby, docketed and dismissed, and that this cause be, and the same is hereby, remanded to the said district court. Jan. 31st.

You therefore are hereby commanded that such proceedings be had in said cause as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwitstanding.

Witness the honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-eight.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

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In the district court of the United States for the southern district of California.

VICENTE P. GOMEZ, APPELLANT,
vs.
THE UNITED STATES, APPELLEES.

And now comes Vicente P. Gomez, appellant herein, and files in open court the mandate of the Supreme Court of the United States, held on the 1st day of December, 1858, and rendered herein. Whereupon it is by the court ordered, adjudged, and decreed that the said mandate be carried into effect, and that the said Gomez proceed under the decree of this court heretofore rendered as under a final decree.

This done and signed in open court this May, A. D. 1859.

Erased: [Filed May 4th, 1859.] C. SIMS, *Clerk.*

Above erasure made January 18th, 1860.

C. SIMS, *Clerk.*

The mandate of the Supreme Court was filed in the district court below on the 4th day of May, 1859, whereupon the district court ordered, adjudged, and decreed that the said mandate be carried into effect, and that the said Gomez proceed under the decree of the district court, theretofore rendered, as under a final decree.

The effect of this judgment of dismissal of the appeal was to perfect the title to the rancho "Panoche Grande" in McGarrahan, as the grantee of Gomez, and the same having been made at the suggestion of the Attorney-General and with his knowledge and consent, after full argument had before him, should have been held to have operated as a *retraxit*, and as an estoppel upon the United States from thereafter taking a new appeal in the case.

1st. The Supreme Court has no power to review their decisions. The law points out no mode in which judgments of the Supreme Court can be reviewed, either by the court itself or any other court, even where they have been rendered without jurisdiction. (Washington Bridge Company *vs.* Stewart, 3 Howard, 413; Ex parte Sibald, 12 Peters, 491.)

2d. After a mandate no rehearing will be granted. It is never done in the House of Lords. (Ex parte Sibald, 12 Peters, 491.)

3d. No principle is better settled or of more universal application than that no court can reverse or annul its own final judgments or decrees for errors of fact or law after the term in which they had been entered except for clerical mistakes. (3 Wheaton, 591; 3 Peters, 491.)

PATENT TO THE LAND.

We also present herewith the decision of Hon. Caleb B. Smith, Secretary of the Interior, directing the issuance of the patent to the land in controversy to Vicente P. Gomez, from whom McGarrahan derived title:

DEPARTMENT OF THE INTERIOR,
Washington, Dec. 29, 1862.

SIR: I have carefully examined the papers accompanying your communication of 29th October last, relating to the application for a patent for the "Panoche Grande" Mexican claim of Vincent Gomez, in California.

From these papers the following facts are established:

Vincent Gomez made his application before the board of land commissioners in California for the confirmation of an alleged grant by the Mexican authorities in 1844 of four square leagues of land in Monterey County, California, which grant, he alleged, was lost or destroyed at Monterey when that city was captured by the American Army.

On the 6th March, 1855, the commissioners decided that the claimant had "given satisfactory proof of the existence and loss of the grant, but has failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part or of the land, or that any person ever did for him or that he ever saw the land." The commissioners, therefore, rejected the claim as invalid.

From this decision the claimant appealed to the district court for the southern district of California.

After the appeal was taken, and before the trial of the case by the court, the Supreme Court of the United States decided that neither improvement nor occupancy was necessary to give validity to grants made by the Mexican Government before the annexation of California to the United States. *From this decision, it appears that the land commissioners found all the facts which were necessary to give validity to the claim.* Had this decision been made before the commissioners decided the case, it is evident they would have confirmed the grant.

On the 5th June, 1857, the district court for the southern district of California made an entry upon their minutes that, "being fully advised in the premises, delivered its opinion, confirming the claim of the appellants to the extent called for in the transcript and papers—three leagues or *sitios de ganada*, and a decree was ordered to be entered up in conformity to said opinion."

No formal decree was signed and entered upon the records at that term; but, on the 5th of February, 1858, at the next term of the court, a full and final decree was

signed by the court, and entered upon the records, which described the land by boundaries, and decreed that the decision of the land commissioners was reversed, "and that the claim of said appellant is good and valid, and the same is here confirmed to him." The decree also recited that the claim had been confirmed on the 5th June, 1857, by the court at a regular term, but it had been omitted by the court to sign the decree at the time it was made.

It was therefore ordered that the decree be signed "now as for then." This was a decree *nunc pro tunc*, and had relation back to the time when the order of confirmation was made by the court.

On the 21st March, 1861, several regular terms of the court having intervened, the court made an order setting aside all previous proceedings in the case, and placing the same on the calendar for trial *de nova*. On the 4th day of August, 1862, the court, at a regular term, made an order vacating the previous order granting a new trial, and ordering that it "be, and the same is hereby, vacated and set aside." These several decrees and orders constitute a confirmation by the court of the grant of the claimant, and entitle him to a patent, unless it shall be apparent that some proceedings have been instituted on behalf of the United States, by way of appeal or otherwise, which will require a review or reëxamination of the case.

The case was docketed in the Supreme Court, at the December term, 1858, as an appeal from the district court of California, and the appeal was dismissed on the motion of the appellee, and a mandate granted to the district court to execute the decree of confirmation. At the December term, 1859, on motion of the Attorney-General, the order dismissing the appeal was vacated, and the mandate was recalled. The effect of this order was to leave the case as though no appeal had been taken, and to authorize an appeal on behalf of the United States.

No appeal appears to have been subsequently taken until the 25th of August last, when an order for an appeal to the Supreme Court of the United States was made by the district court of California. On the 4th of the present month the district court vacated the order allowing the appeal and set aside the motion of the district attorney asking leave, on behalf of the United States, to take an appeal to the Supreme Court from the final decree of confirmation, and denied the same.

This proceeding appears to me to be final and conclusive in the case. The time within which by law an appeal may be taken has elapsed, and the decree of confirmation made by the district court, therefore, fixes and determines the rights of the claimant.

It appears, from the opinion of the Supreme Court of the United States before referred to, that the district attorney who represented the United States when the decree of confirmation was made was interested in the claim at that time, and it is alleged that he fraudulently assented to the decree. Questions of fraud, which have been raised in the case, can not be examined or determined by this Department.

The only questions to be considered are, has the grant been confirmed by the decree of the proper court, and are there any legal proceedings pending to reverse or set aside that decree? Upon both of these questions, it appears to me, the answer must be in favor of the claimant.

The act of 14th June, 1860, which requires the surveyor-general to publish for a given time the fact of the survey, with a view of affording to persons interested an opportunity to contest the boundaries fixed by the survey, is directory to that officer. The law directs this proceeding before the survey shall be reported to the General Land Office. The survey having been reported in this case, the presumption arises that the surveyor-general has performed all the prerequisite duties enjoined by the law.

Besides, by the law of June 2d, 1862, the proper officers are required to survey such grants upon the application of the claimants, they paying or securing the expense, and such survey is declared to be but *prima facie* evidence of the true location of the land claimed or granted. Of course, it is the duty of the surveyor-general to report such survey to the General Land Office, which has been done in this case. The survey is but *prima facie* evidence of the true location, and a patent will be but *prima facie* evidence of title.

No notice has been presented of any conflicting claim, and, should such arise, the parties can not be precluded by a patent.

The order of Secretary Thompson against the issue of a patent in this case, based upon the letter of Attorney-General Black, was founded upon the assumption that further proceedings would be instituted to reverse the decree of confirmation of the district court. No such proceedings are now pending, and the time within which any further appeal can be presented has elapsed.

My conclusion is that the decree of the district court for the southern district of California, confirming the grant, has become final. The United States has no longer any interest in the controversy. No claim of third parties has been interposed. The suggestion of fraud in the grant, or in the manner of procuring its confirmation, are res adjudicata, and

I am unable to discover any reason why a patent should not be issued in conformity with the decree of the court and the survey.

You will therefore issue a patent for the land in accordance with the survey, as reported by the surveyor-general.

The papers pertaining to the case are herewith returned to your office.

Very respectfully your ob't serv't,

CALEB B. SMITH,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

This decision presents another point of view from which McGarrahan's case should be considered. It is shown that the Secretary of the Interior, Hon. Caleb B. Smith, rendered a decision in favor of McGarrahan's title to the lands on the 29th day of December, 1862. The case came regularly before the Secretary for consideration, and it cannot be disputed that when the law has confided to a special tribunal the authority to hear and determine certain matters arising in the course of its duties, the decision of that tribunal, within the scope of its authority, is conclusive upon all others. (Johnson *vs.* Towsley, 13 Wall, 83, 84, and authorities there cited.)

Upon well-understood principles, a power confided to a special tribunal can neither be reviewed, nor enforced, nor reversed by courts of law or equity, as between the Government and those seeking to become purchasers or grantees. The final action of the Land Office has always been regarded as final by the judiciary. Its decisions, whether rightful or wrongful, have never been reviewed, either to enforce sale by mandamus or prevent it by injunction. (Hot Springs case, 10 Court of Claims R., 362.)

The Secretary of the Interior directed that a patent be issued to McGarrahan, and, as is hereinbefore shown, the patent was subsequently made out and recorded. McGarrahan, however, it appears, did not acquire knowledge of the record of the patent, showing an executed patent, until about the 6th day of July, 1870. Had McGarrahan known of the existence of this record at the time of the final hearing of the case in the Supreme Court, in 1866, so that the attention of the court could have been directed to it, the patent being based upon the decision of the Secretary of the Interior, Mr. Smith, affirmed by his successor, Mr. Usher, the court would have in all probability held that to have been a final and conclusive disposition of the controversy, especially in view of the further fact that upon the withholding of the patent President Lincoln, after a full hearing of the case upon printed briefs and oral argument, had directed its delivery to McGarrahan.

Mr. Smith retired from office a few days after rendering his decision as above quoted, and was succeeded by Hon. J. P. Usher, who upon finding that the then Commissioner of the General Land Office had refused to issue a patent in accordance with Mr. Smith's decision, reiterated that decision as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 4, 1863.

SIR: I have considered your communication of the 3d of January, 1863, relative to the issuing of a patent for the Panoche Grande claim in California.

My predecessor having determined that the title was in the grantee named in the grant, the only question for my decision is whether a patent shall issue upon a survey returned by the surveyor-general, made under the act of June 2, 1862. The view which I have taken of that act is that it modifies the acts of March 3, 1851, and of June 14, 1860, so far as to allow the survey to be made at the instance of the party claiming the land, and making that survey only *prima facie* evidence of the true location of the land claimed.

If the survey had been made under the acts of March 3, 1851, and June 14, 1860, and advertisements had been made, and all things done in pursuance of the last-named act, the acts of the surveyor (if the same had remained, without having been caused by an interested party to be certified to the court), or the adjudication of

the court, if the same had been so certified, would have been conclusive as to the *locus* fixed by the survey. Whereas the act of June 2, 1862, makes the survey made under that act *prima facie* evidence only of the true location of the land claimed or granted, and as the survey was necessarily made under that act, I am of the opinion that the latter act modifies the former acts in this particular only, and that they are in force so far as they direct patents to be issued.

I think, therefore, that the decision of my predecessor, directing the patent, was correct, and that it should issue. I would advise you, however, to cause to be inserted in the patent, by way of recital, the fact that it was issued upon a survey made under the act of June 2, 1862, and also, by way of greater caution, to insert a provision that the description of the land therein conveyed was to be taken against the United States, or any person making claim to the land, as *prima facie* evidence only of the true location of the land granted, and to be modified or avoided in that respect if the same should be found to be erroneous.

Respecting the payment of the surveyor for the survey, I think it may be fairly presumed that his fees have been paid, or he would not have returned the survey. To strengthen this presumption, two certificates of the assistant treasurer of the United States at San Francisco, number 3, one of $545 and the other of $55, have been deposited with me by the claimants, which, with the papers, are returned to you. The sums mentioned in these certificates it is alleged by the claimants, and I may fairly presume, were deposited for this survey.

Very respectfully, your obedient servant,

J. P. UPSHUR, *Secretary.*

Hon. J. M. EDMUNDS,
Commissioner of the General Land Office.

In accordance with the above decisions the patent was executed and recorded on the 14th day of March, 1863, in Vol. 4, pp. 312 and 321, inclusive, and is as follows:

Patent.

THE UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Whereas it appears from a duly authenticated transcript, filed in the General Land Office of the United States, that pursuant to the provisions of the act of Congress approved the third day of March, one thousand eight hundred and fifty-one, entitled "An act to ascertain and settle the private land claims in the State of California," Vicente P. Gomez, as claimant, filed his petition on the ninth day of February, 1853, with the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in which petition he claimed the confirmation of his title to a tract of land called Panoche Grande, of the extent of four square leagues, situated in the county of San Joaquin, and State aforesaid; said claim being founded on a Mexican grant to the petitioner, made in the year 1844, by Manuel Micheltorena, then governor of Upper California;

And whereas the board of land commissioners aforesaid, on the 6th day of March 1855, rendered a decision rejecting said claim, which decree or decision was, on appeal, reversed by the district court of the United States for the southern district of California, by decree rendered as follows:

"Vicente P. Gomez, appellant, *vs.* The United States, appellee; case No. 393, 'Panoche Grande.' Transcript No. 569. Decree. This cause came on to be heard on appeal from the decision of the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3, 1851, on a transcript of the decision and proceedings of said board, and the papers and evidence upon which said decision was made, and the other evidence adduced by the appellant before this court, and it appearing to the court that said transcript and notice of intention to appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of said Board of Land Commissioners be, and the same is hereby, reversed; and that the claim of said appellant is good and valid; and the same is hereby confirmed to him as follows, to wit: The tract of land situate in the county of Fresno, State of California, known by the name of 'Panoche Grande,' bounded northerly by the lands of Don Julian Ursua, southerly by the hills, easterly by the valley of the Tulare, and westerly by the lands of Don Francisco Arias, containing four square leagues of land and no more, provided that quantity is contained within the boundaries aforesaid, and provided also that if a less quantity is contained within the boundaries aforesaid, that con-

firmation of such less quantity is hereby made to said claimant, and for a more particular description of which said land reference is hereby made to the map contained in the transcript in this case.

"And it also appearing to this court that heretofore, to wit, on the 5th day of June, A. D. 1857, at a regular term of this court holden in the town of Monterey, State of California, the claim of the appellant in this case had been confirmed by this court, but that it had been omitted by this court to sign the decree of confirmation at the time the same was made: It is therefore further ordered by this court that the same be signed now as for them.

"Given under my hand in open court this 5th day of February, A. D. 1858.

"ISAAC S. K. OGIER,

"U. S. Dist. Judge for the S. Dist. of Cala."

And whereas it further appears from a duly certified extract on file in the General Land Office, from the minutes of the Supreme Court of the United States, that this cause being brought by appeal before the said court at the December term, 1858, the following proceedings were had therein: "Now on this day this cause coming on to be heard, the parties appearing by their respective attorneys, the appellant by Sloan & Hartman, esqs., and the appellees by P. Ord, U. S. dist. atty., and after argument of counsel aforesaid, the same is submitted to court for final adjudication. Whereupon the court, being fully advised in the premises, delivered its opinion confirming the claim of the appellant to the extent called for in the transcript and papers, three leagues or sitios de gañada major, and a decree was ordered to be entered up in conformity with said opinion;" and thereafter, to wit, at the December term, 1859, of the Supreme Court of the United States, the following order was made in this case: "The United States, app'ts, *vs.* Vicente P. Gomez. Appeal from the district court of the United States for the southern district of California."

"On considèration of the motion made in this cause on a prior day of the present term, to wit, on Friday, the 27th day of January, A. D. 1860, by Mr. Attorney-General Black, to rescind the order and decree of this court of the 31st day of January, 1859, docketing and dismissing this appeal, and to revoke and cancel the mandate issued by this court to the district court of the United States for the southern district of California, and of the argument of counsel thereupon had as well in support of as against the said motion; it is now here ordered by this court that the aforesaid decree of this court docketing and dismissing this appeal be, and the same is hereby, rescinded and annulled, and that the mandate issued by this court to the district court of the United States for the southern district of California in this case be, and the same is hereby, revoked and canceled; and it is further ordered by this court that the clerk of this court do forthwith send a certified copy of this order to the aforesaid district court of the United States for the southern district of California."

And whereas it further appears from a duly certified transcript on file in the General Land Office, that an order having been made in the district court of the United States for the southern district of California, granting a new trial in this case, the said court on the 4th day of August, 1862, on a motion to vacate and set aside said order, made the following order: "Vincente P. Gomez, appellant, *vs.* The United States, appellee, D. C. No. 393, L. C. No. 569. 'Panoche Grande.' On this day the court delivers its opinion in this case, granting the motion heretofore made by the appellant herein, praying the court to vacate and set aside the order of Hon. Isaac S. K. Ogier, late judge, granting a new trial in this cause. And it is hereby ordered that the previous order of this court made and entered on the 21st day of March, 1861, setting aside all proceedings had in this cause, and placing the same on the calendar for trial *de novo*, be, and the same is hereby, vacated and set aside."

And whereas it further appears from a duly certified transcript on file in the General Land Office of the United States that an order having been made on the 25th day of August, 1862, in the district court aforesaid, allowing appeal in this case to the Supreme Court of the United States, the said district court, at the December term, 1862, made the following order: "Vicente P. Gomez *vs.* The United States, No. 393, Panoche Grande. In this case the court delivered an opinion on the motion submitted the day before yesterday, and ordered that the appeal taken on the twenty-fifth day of August, A. D. 1862, by the United States to the Supreme Court of the United States from the final decree of confirmation herein be vacated and set aside, and it is further ordered that the order of this court made on the said 25th day of August, A. D. 1862, allowing said appeal be, and the same is, vacated and set aside, and the motion of the United States district attorney for leave to take an appeal on behalf of the United States to the Supreme Court of the United States from the said final decree be, and the same is denied."

And whereas there has been presented to the Commissioner of the General Land Office a plat, with a certificate of the survey of the said claim, authenticated by the signature of the surveyor-general of the public lands in California, said survey

having been made pursuant to the act of Congress approved June 2, 1862, entitled "An act for the survey of grants or claims of land," said plat and certificate being in the words and figures following, to wit:

"UNITED STATES SURVEYOR-GENERAL'S OFFICE,
"*San Francisco, California.*

"Under and by virtue of the provisions of the act of Congress of the 2d of June, 1862, entitled 'An act for the survey of grants or claims of land,' and in consequence of a certificate of the United States district court for the southern district of California, a copy of which is hereto annexed, by which it appears that a decision of the said district court has been had, recognizing and confirming the title claim of Vicente P. Gomez to the tract of land designated 'Panoche Grande,' the said tract has been surveyed in conformity with said decision, and I hereby certify the annexed map to be a true and accurate plat of said tract of land as appears by the field-notes of the survey thereof made by E. H. Dyer, deputy surveyor, in the month of July, 1862, under the direction of this office, which, having been examined and approved, are now on file therein.

"And I hereby certify that the said tract of land is bounded and described as follows, to wit:

"Beginning at post in earth mound, corner to sections one, two, eleven, and twelve, township seventeen south, range eleven east of Mount Diablo meridian, from which post a point on the highest ridge of the Lomas Muertas (a high range of barren and broken mountains, the eastern slope of which forms the western edge of Tulare Valley) bears north nine degrees west, distance about two miles.

"Thence according to the true meridian, the variation of the magnetic needle being fifteen degrees thirty minutes east, over rolling land to the north of a small valley called Vallecito, north forty chains to post in earth mound on quarter-section corner between sections one and two. Station.

"Thence west eighty chains to quarter-section corner on line between sections two and three. Station.

"Thence north forty chains to post in earth-mound corner to sections two and three on fourth standard line south. Station.

"Thence west at forty chains quarter-section post in earth mound eighty chains to post in earth-mound corner to sections three and four on fourth standard line south. Station.

"Thence through township sixteen south, range eleven east, north forty chains to station.

"Thence through middle of sections thirty-three and thirty-two west one hundred chains to station.

"Thence south at forty chains intersects fourth standard line south twenty chains west of post corner to sections four and five; thence with a variation of fifteen degrees thirty-five minutes east through township seventeen south, range eleven east, parallel to its eastern boundary; at sixty chains enters Vallecito Valley, course northwest and south of east one hundred chains to station.

"Thence east twenty chains to station on line between sections four and five; thence south at thirty chains leaves small valley; thence over broken hills near southern edge of said valley sixty chains to quarter-section corner between sections eight and nine. Station.

"Thence east eighty chains to quarter-section corner between sections nine and ten. Station.

"Thence south forty chains to corner to sections nine, ten, fifteen, and sixteen. Station.

"Thence east one hundred and twenty chains to quarter-section corner between sections eleven and fourteen. Station.

"Thence through section fourteen south sixty chains to station.

"Thence east twenty chains to station.

"Thence south twenty chains to station on line between sections fourteen and twenty-three.

"Thence on section line east sixty chains to quarter-section corner on line between sections thirteen and twenty-four. Station.

"Thence through middle of sections twenty-four, twenty-five, and thirty-six, over high and rough mountains, south two hundred chains to center of section thirty-six. Station.

"Thence east at forty chains quarter-section post in earth mound on line between ranges eleven and twelve east; thence through township seventeen south, range twelve east, eighty-two chains and fifteen links to center of section thirty-one. Station.

"Thence south at forty chains quarter-section post in mound on line between townships seventeen and eighteen south, sections thirty-one and six, on top of a ridge course northwest and southeast, thence through township eighteen south, range

twelve east, two hundred and eighty chains to quarter-section corner between sections eighteen and nineteen. Station.

"Thence on section line west twenty chains to station.

"Thence through section nineteen south sixty chains to station.

"Thence east twenty chains to station.

"Thence south twenty chains to quarter-section corner between sections nineteen and thirty. Station.

"Thence on section line east sixty chains to station.

"Thence through section twenty north sixty chains to station.

"Thence east twenty chains to station.

"Thence north twenty chains to quarter-section corner between sections seventeen and twenty. Station.

"Thence on section line east twenty chains to station.

"Thence through section seventeen north forty chains to station.

"Thence east twenty chains to quarter-section corner between sections sixteen and seventeen. Station.

"Thence on section-line north eighty chains to quarter-section corner between sections eight and nine. Station.

"Thence through section nine east forty chains to center of section nine from which the Panoche Grande Peake bears south fifty-six degrees east, distant about seventy chains. Station.

"Thence north at forty chains quarter-section post in rock mound on line between sections four and nine, from which a pine tree bears north fifty-two degrees east, distant twenty-four links, another pine tree bears south fifteen degrees west, distant nineteen links, and the San Carlos Peak in the northeast quarter of section four bears north twenty-two degrees east; thence through section four, at fifty-four chains and fifty links, across Arroyo Panoche Grande, course northwest sixty chains to station.

"Thence east twenty chains to station.

"Thence north twenty chains to station.

"Thence east twenty chains to quarter-section post in earth mound on line between sections three and four. Station.

"Thence on section line, with a variation of fifteen degrees fourteen minutes east, north; at forty chains and forty links intersects line between township seventeen and eighteen south, range 12 east, at post in the earth-mound corner to section three, four, thirty-three, and thirty-four; thence through township seventeen south, range twelve east, over high and broken mountains, with a variation of fifteen degrees thirty-eight minutes east, eighty chains and forty links to quarter-section post in earth mound between sections thirty-three and thirty-four. Station.

"Thence through section thirty-three, with a variation of fifteen degrees twenty-seven minutes east, west forty chains to center of section thirty-three, from which a marked cedar tree, eight inches diameter, bears west, distant forty chains. Station.

"Thence through middle of sections, with a variation of fifteen degrees thirty-eight minutes east, north of forty chains post in earth mound at quarter-section corner between sections twenty-eight and thirty-three one hundred and twenty chains to post in earth mound at quarter-section corner between sections twenty-one and twenty-eight two hundred chains to a sandstone twelve inches long, ten inches wide, and eight inches thick, in a rock mound in deep rocky gulch, from which a steep rock cliff bears north forty-five degrees east; said sandstone is set for quarter-section corner between sections sixteen and twenty-one; thence over alkali hills two hundred and eighty chains to quarter-section post in a mound of alkali soil between sections nine and sixteen. Station.

"Thence, with a variation of fifteen degrees fifty-nine minutes east, west forty chains to a post in mound of alkali soil, corner to sections eight, nine, sixteen, and seventeen. Station.

"Thence on section line, with a variation of fifteen degrees thirty-eight minutes east, north forty chains to quarter-section post in mound of alkali earth. Station.

"Thence through section eight, within a variation of fifteen degrees fifty minutes east, west forty chains to center of section eight. Station.

"Thence with a variation of fifteen degrees thirty-eight minutes east, north forty chains to a sandstone rock twelve inches long, ten inches wide, and eight inches thick in mound of alkali earth, quarter-section corner on line between sections five and eight. Station.

"Thence on section line with a variation of fifteen degrees fifty-four minutes east, west at thirty chains thirty-eight links enters the narrow valley of the Arroyo Panoche Grande, at thirty-nine chains eighty-eight links across Arroyo Panoche Grande fifty links wide, course north ten degrees east; thence over low hills forty chains and thirty-eight links to post in mound at corner to sections five, six, seven, and eight; thence on section line, with a variation of fifteen degrees thirty minutes east, eighty chains and thirty-eight links to quarter-section post in earth mound, one hundred and

twenty chains and thirty-eight links to post in earth mound at corner to sections one, six, seven, and twelve, on line between ranges eleven and twelve east; thence through range eleven east one hundred and sixty chains and thirty-eight links to quarter-section post in mound two hundred chains and thirty-eight links to point of beginning, containing seventeen thousand seven hundred and sixty-eight and seventy-seven one-hundredths acres and being designated in the plot of public surveys as lot number thirty-seven, township sixteen south, range eleven east; lot number thirty-seven, township seventeen south, range eleven east; lot number thirty-seven, township seventeen south, range twelve east; and lot number thirty-seven, township eighteen south, range eleven east, all of Mount Diablo meridian.

"In witness whereof I have hereunto signed my name officially, and caused [SEAL.] the seal of my office to be attached, at the city of San Francisco, this eleventh day of September, one thousand eight hundred and sixty-two.

"E. F. BEALE,
"U. S. Surveyor-General, California."

And whereas, application having been made for the issue of a patent upon the foregoing survey, the Secretary of the Interior, under date of 29th December, 1862, rendered his decision, in which, upon recital in substance of the proceedings had in the matter and review, it is held as follows: that "the decree of the district court for the southern district of California, confirming the grant, has become final;" that "the United States has no longer any interest in the controversy;" that "no claim of third parties has been interposed;" that "the suggestions of fraud in the grant, or in the manner of procuring its confirmation, are *res adjudicata*," and he is "unable to discover any reasons why a patent should not be issued in conformity with the decree of the court and the survey," and ordered the issue of "a patent for the land in accordance with the survey as reported by the surveyor-general."

Now know ye, that the United States of America, in consideration of the premises, and pursuant to the provisions of the acts of Congress and decisions aforesaid, have given and granted, and by these presents do give and grant unto the said Vicente P. Gomez, and to his heirs, the tract of land embraced and described in the foregoing survey, with the stipulation that said survey under the aforesaid act of June 2d, 1862, shall "be taken as *prima facie* evidence only of the true location of the land granted," and with the further stipulation that, in virtue of the 15th section of the said act of March 3d, 1851, the confirmation of this said claim and this patent "shall not affect the interests of third persons."

To have and to hold the said tract, with the appurtenances, unto the said Vicente P. Gomez, and to his heirs and assigns forever, with the stipulations aforesaid.

In testimony whereof, I, Abraham Lincoln, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington this fourteenth day of [SEAL] March, in the year of our Lord one thousand eight hundred and sixty-three, and of the Independence of the United States the eighty-seventh.

By the President: ABRAHAM LINCOLN,
By W. O. STODDARD, *Secretary,*
Acting Recorder of the General Land Office.

The committee has thought it worth while to call the attention of the Senate to the fact that the remedy provided in this bill is very similar to that to be found in the act of March 3, 1891, entitled "An act to establish a court of private land claims and to provide for the settlement of private land claims in certain States and Territories."

This latter bill is general and of course reaches much further in effect than the present bill could possibly do. To afford opportunity for comparison we quote from the act of March 3, 1891.

In the third division of section 12 of that act will be found the following:

Third. No allowance or confirmation of any claim shall confer any right or title to any gold, silver, or quicksilver mines or minerals of the same, *unless the grant claimed affected the donation or sale of such mines or minerals to the grantee, or unless such grantee has become otherwise entitled thereto in law or in equity;* but all such mines and minerals shall remain the property of the United States, with the right of working the same, which fact shall be stated in all patents issued under this act. *But no such mine shall be worked on any property confirmed under this act without the consent of the owner of such property* until specially authorized thereto by an act of Congress hereafter passed.

Section 14 of that bill reads thus:

SEC. 14. That if in any case it shall appear that the lands or any part thereof decreed to any claimant under the provisions of this act shall have been sold or granted by the United States to any other person, such title from the United States to such other person shall remain valid, notwithstanding such decree, and upon proof being made to the satisfaction of said court of such sale or grant, and the value of the lands so sold or granted, such court shall render judgment in favor of such claimant against the United States for the reasonable value of said lands so sold or granted, exclusive of betterments, not exceeding one dollar and twenty-five cents per acre for such lands; *and such judgment, when found, shall be a charge on the Treasury of the United States.* Either party deeming himself aggrieved by such judgment may appeal in the same manner as provided herein in cases of confirmation of a Spanish or Mexican grant. For the purpose of *ascertaining the value and amount of such lands* surveys may be ordered by the court and proof taken before the court or by a commissioner appointed for that purpose by the court.

That there may be no misunderstanding as to the quantity of land disposed of within the limits of the Panoche Grande grant the following letter is granted:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 25, 1888.

SIR: In response to your inquiry of the 21st instant relative to the amount of land which has been disposed of within the claimed limits of the private grant known as the "Panoche Grande," in the San Francisco, Cal., land district, I have the honor to state that upon examination of the records of this office I find that 2,672.71 acres have been disposed of within the limits of said claim, which covers land in townships 16 and 17 south, range 11 east, and townships 17 and 18 south, range 12 east, Mount Diablo meridian.

The copy of Senate bill No. 1030, handed to me by you, is herewith returned.

Very respectfully,

S. M. STOCKSLAGER,
Acting Commissioner.

Hon. H. M. TELLER,
U. S. Senate.

In conclusion, your committee begs to adopt as its own the summing up of this matter as presented to the Senate in the Fiftieth Congress in the report of the Committee on Mines and Mining, and which is as follows:

Your committee has given this matter a great deal of consideration. The claim when first presented to Congress was carefully considered by the law committee of the House, and, as has been stated, that committee reported a bill confirming the title to the land in controversy to McGarrahan, and the House passed the bill. The reasons which led the committee to the conclusions which it reached are stated in the report with great clearness and force. The House of Representatives of the Forty-first Congress passed the joint resolution before referred to, which virtually gave effect to the patent, notwithstanding the adverse decision of the Supreme Court, after a protracted debate. Your committee, in view of the action taken at different times by the two Houses of Congress and their committees, and also in view of the decisions of the departments and the different decisions of the courts, as above recited, have thought it best to refer the question of the validity of the grant again to the courts, to be acted on without regard to any former decisions. It has likewise referred to the courts the question of indemnity to McGarrahan, in case it is decided that the grant is valid. The bill provides that all evidence taken before the land commissioners, or before a court of the circuit or district court of the United States in California, or before the committees of the two Houses of Congress, and before persons authorized by law to administer oaths, shall be competent testimony on the trial. It appears that in January, 1881, and subsequently the United States parted with the title to certain portions of the land embracing the New Idria quicksilver mine to the New Idria Mining Company. If there was a grant of this land to Gomez, protected by the treaty of Guadalupe Hidalgo, and the courts so find under the provisions of the bill reported by your committee, then the question of the liability of the Government, in law or equity, to indemnify said McGarrahan for any portion of the lands disposed of by it is submitted to the court.

Your committee, in order that there may be a final determination of this case, recommend the passage of Senate bill 341 without amendments.

Your committee add hereto a letter from the Assistant Commissioner of the General Land Office with an abstract of entries made within the limits of said grant; also a letter from the Acting Commissioner of the General Land Office of January 25, 1888, concerning said entries; also a letter from Mr. McGarrahan, and his counsel, the Hon. Eppa Hunton; also an additional letter from Mr. McGarrahan, and also an extract from the report made from the Judiciary Committee of the House of Representatives of the Forty-eighth Congress by Hon. Patrick Collins, Hon. William C. Maybury, and Hon. H. Bisbee, jr., also a copy of a joint resolution that passed the House of Representatives February 23, 1891, all of which are made a part of this report, and are attached as exhibits A, B, C, D, E, F, and G.

EXHIBIT A.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 5, 1888.

SIR: In response to your inquiry of this date I have the honor to transmit herewith an abstract of entries made within the claimed limits of the private grant known as the Panoche Grande, showing the names of the entrymen and the nature and area of the entries.

Very respectfully,

T. J. ANDERSON,
Assistant Commissioner.

Hon. H. M. TELLER,
United States Senate.

EXHIBIT B.

Township No. ——, ——, Range No. ——, District of ——.

Description of tract.				Contents.	Rate per acre.	Purchase money.	Name of the purchaser.	Date of sale.	Number of receipt and certificate of purchase.	Remarks.
Part of section.	Section.	Township south.	Range east.							
				Acres.						
Homestead, E. ½ SE. ¼	33	16	11	80			John Babtiste Friand	June 3, 1881	4430	Final certificate No. 1665, Sept. 5, 1881.
Pre. cash, S. ½ SE. ¼ and S. ½ SW. ¼	2	17	11	160	$2.50	$400.00	Andrew J. Ashurst	Nov. 27, 1883	9638	
Home., NW. ¼	4	17	11	160			Wm. Ashurst	July 11, 1881	4494	F. C. 2760, March 15, 1886.
Home., SE. ¼	4	17	11	160			John Ashurst	Sept. 11, 1882	5023	
Pre. cash, N. ½ SW. ¼	4	17	11	80						Located with bounty land wt. 66556, act 1855; 160 acres, David Dixon, Sept. 27, 1878; R. & R., No. 1888.
Pre. cash, S. ½ SW. ¼	4	17	11	80						Located with bounty land wt. 51832, act 1855; 160 acres, David Dixon, Sept. 27, 1878; R. & R., No. 1889.
Timber culture:										
E. ½ NE. ¼ and N. ½ SE. ¼.	10	17	11	160			Wm. Ashurst	Apr. 7, 1886	862	
S. ½ SE. ¼ and S. ½ SW. ¼.	10	17	11	160						Selected by State, Sept. 17, 1881, in lieu of SW. ¼ sec. 16, 3 S., 1 E., M. D. M., R. & R., 3956 & 3955; app'd May 29, 1883. List 49.
S. ½ SE. ¼ and ½ S.	12	17	11	160						Selected by State, April 1, 1881, in lieu of SW. ¼ sec. 36, 16 S., 4 E., M. D. M., R. & R., 3918; app'd Nov. 16, 1882. List 48.
Pre. cash:										
NE. ¼	14	17	11	160						Located Aug. 10, 1872, Ramon F. Careaga, agricultural college scrip 693, act July 2, 1862, R. & R., 1113.
Excess	14	17	11	160	1.25	200.00	Ramon F. Careaga	Aug. 10, 1872	3727	
W. ½ SE. ¼, S. ½ NW. ¼, and NE. ¼ SW. ¼.	14	17	11	200						Selected by State, May 2, 1881, in lieu of N. ½ NW. ¼ sec. 16 S., 4 E., M. D. M., and S. ½ NE. ¼ and NE. ¼ NE. ¼ sec. 16, 7 N., 32 W., S. B. M., R. & R., 3935; app'd Nov. 16, 1882. List 48.
Home., lots 1 and 2	24	17	11	88.18			Domingo Ortes	May 27, 1884	6099	
Home., SE. ¼	7	17	12	160			Refugio L. Valdez	Nov. 29, 1886	8231	F. C. 3017, June 13, 1887.
Pre. cash:										
N. ½ NW. ¼	8	17	12	80						Located bounty land wt. 17830, act 1847; 160 acres, Refugio Llames Valdez, Sept. 27, 1878, R. & R., 119.

S. ½ NW. ¼	8	17	12	80						Located bounty land wt. 80081, act 1847; 160 acres, Refugio Llames Valdes, Sept. 27, 1878, R. & R., 120.
Home., lots 3, 4, and 6	17	17	12	142.54			Rosario Mercinda	June 16, 1878	8752	
Lots 2, 3, 4, 5, 6, 7, 8, 13, and 14.	18	17	12	319.01						Selected by State, Oct. 28, 1881, in lieu of SW. ¼ sec. 16, 16 S., 4 E.; NW. ¼ SW. ¼ sec. 16, 22 S., 7 E.; NW. ¼ SW. ¼ sec. 16, 1 S., 6 W.; and N. ½ NW. ¼ sec. 16, 16 S., 1 E.; M. D. M., R. & R., 3963; app'd Nov. 16, 1882. List 48.
N. ½ SW. ¼	28	17	12	80						Selected by State, April 6, 1881, under acts July 2, 1862, June 8, 1868, and March 3, 1871, R. & R., No. 157, double minimum; app'd February 9, 1883. List 9.
Excess				80	$1.25	$100.00	University of California	Oct. 4, 1883	9425	
Mineral lot:										
38	32	17	12	20.66	5.00	105.00	New Idria Mining Co.	Dec. 11, 1879	77	
42	4	18	12	20.66	5.00	105.00	do	July 28, 1881	80	
43	4	18	12	20.66	5.00	105.00	do	do	81	
44	4	18	12	20.66	5.00	105.00	do	do	82	
38 of 13, 18 S., 11 E., and 39 of sec's 7, 18, and 19.		18	12	252.97	5.00	1,265.00 700.00	Jas. P. Sargent *et al.*	Dec. 12, 1878	22	
38 in sec's 17, 18, 19, and 20.		18	12	139.07	5.00		do	do	21	

EXHIBIT C.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 25, 1888.

SIR: In response to your inquiry of the 21st instant, relative to the amount of land which has been disposed of within the claimed limits of the private grant known as the "Panoche Grande," in the San Francisco, Cal., land district, I have the honor to state that upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim, which covers land in townships 16 and 17 south, range 11 east, and townships 17 and 18 south, range 12 east, Mount Diablo meridian.

The copy of Senate bill No. 1030, handed to me by you, is herewith returned.

Very respectfully,

S. M. STOCKSLAGER,
Acting Commissioner.

Hon H. M. TELLER,
U. S. Senate.

EXHIBIT D.

WASHINGTON, *April 16, 1888.*

DEAR SIR: Senator Voorhees, on December 31, 1887, presented a bill for the relief of William McGarrahan, which was referred to the Committee on Mines and Mining, of which you are a member.

A bill of a similar character was favorably reported by the Senate and House Committees on Mines and Mining of the Forty-ninth Congress, but was not reached on the calendar of either House, and, of course, not considered.

A majority of the Committee on Mines and Mining of the House of Representatives, through its chairman, Mr. O'Ferrall, also reported a bill for McGarrahan's relief at this present session, which is now on the calendar of the House.

The Committee on Private Land Claims of the House of Representatives, 17th February, 1881, Forty-sixth Congress, reported a bill confirming the grant to McGarrahan, *without further litigation*, and recommended that he should be indemnified in other lands, but it was never considered by the House. (See House Report No. 273, Forty-sixth Congress.)

In the Forty-seventh Congress a similar bill was reported favorably by Mr. Muldrow, the present First Assistant Secretary of the Interior, from the Committee on Private Land Claims of the House of Representatives, but it was never considered by the House.

Since the reference of this bill to your committee there has been incorporated therein three amendments, thereby removing objections, as it is believed, of some of the members of the committee and those opposing its passage in its original form.

Senator Teller, on behalf of the committee and for its information, as I understand, made a personal application to the Hon. S. M. Stockslager, Acting Commissioner of the Land Office, to ascertain "the amount of land which has been disposed of within the limits of the private grant known as the Panoche Grande, Cal."

The Acting Commissioner, of date January 25, 1888, in reply, says: "That upon examination of the records of this office I find that 2,673.71 acres have been disposed of within the limits of said claim." (See letter addressed to Senator Teller by the Acting Commissioner.) It thus having appeared by the letter of the Acting Commissioner that only 2,673.71 acres, embraced in the land claimed by McGarrahan, have been disposed of, it would seem that the only questions involved in the bill are his title to and his indemnity for the value of these 2,673.71 acres, and they being wholly left to the courts it is to be hoped they will meet with the approval of the committee and allow the courts to pass upon them.

I respectfully but earnestly urge that your honorable committee report their conclusion to the Senate at their earliest convenience to the end that opportunity may be had by that body to pass upon its merits during this Congress.

Very respectfully,

EPPA HUNTON,
Of Counsel.

Hon. H. M. TELLER, U. S. S.,
Senate Chamber.

P. S.—With a view of relieving the United States from further liability beyond that involved in the 2,673 acres, I respectfully suggest that the committee will be pleased to request the Commissioner of the General Land Office to instruct by letter the register and receiver of lands in the San Francisco, Cal., land district not to permit *any proceedings to* be had in their office in any way affecting the right, title, or

claim of William McGarrahan to the lands embraced within the limits of the rancho Panoche Grande; that said Commissioner of the General Land Office be requested to inform your committee what and all steps he shall take hereunder.

Respectfully,

WM. MCGARRAHAN.

EXHIBIT E.

WASHINGTON, D. C., *January —, 1892.*

The Senate, by request of Senator Teller, having referred my bill to the Judiciary Committee, of which you are an honorable member, for its consideration, I have taken the liberty of inclosing copies of a few reports which have been made in my case. First, is a favorable report of Hon. Charles O'Ferrall, Virginia, member of the present House, in the Fiftieth Congress. A similar favorable report was made by Hon. Mr. Clardy, Missouri, in the Forty-ninth Congress. A favorable report was also made by Hon. James B. Reilly, Pennsylvania, who is a member of the present House, in the Fifty-first Congress.

The second is also a favorable report; which was made by Senator Teller in three different Congresses, but they were not considered by either House for reason they were not reached on the calendars. Senator Teller's report was originally made by Senator Wilson, when chairman of the Judiciary Committee of the Fortieth Congress, and passed the House by a large majority. Senator Teller adopted this report and it substantially embodies the reports of Messrs. O'Ferrall, Clardy, and Reilly. It has, however, a few exhibits attached to it which are not in the others, and which Senator Teller obtained, on personal application, from the Commissioner of the General Land Office, to which I respectfully invite your attention.

I have to respectfully request that you will be kind enough to read and examine them at your leisure.

Reports were also made in the Forty-sixth and Forty-seventh Congresses by Col. Muldron, Mississippi, and Judge Gunter, Arkansas, *which confirmed my grant outright without further litigation*, and a similar favorable minority report by Gen. Collins, Massachusetts, and other members of the Committee on the Judiciary of the Forty-eighth Congress, but were not considered for the reason assigned above, viz, they were not reached on the calendar.

The reports and bills referred to in the first and second paragraphs referred my case to the Court of Claims, with right to appeal to the Supreme Court for final adjudication.

The bill which I had the honor to submit through Senator Teller to the Senate, and which is now before your honorable committee, also refers to my case, and *all* questions connected with it, to said courts for final adjudication.

A bill for my relief was also reported by the Hon. James F. Wilson, present Senator from Iowa, and a member of your honorable committee, when chairman of the Judiciary Committee of the Fortieth Congress, previously referred to, which passed the House by a large majority, but was not definitely acted on by the Senate.

A resolution was also reported for my relief by the Hon. John A. Bingham, Ohio, chairman of the Judiciary Committee of the House, in the Forty-first Congress, which also passed the House, but was not considered by the Senate.

A resolution was also reported for my relief by Gen. B. F. Butler, Massachusetts, chairman of the Judiciary Committee of the House, in the Forty-third Congress, which passed that body with only *eleven* dissenting votes, but was not considered by the Senate.

Praying for an early, and, I trust, a favorable consideration of my case,

I remain, very respectfully,

WM. MCGARRAHAN.

EXHIBIT F.

[Extract from the report of the House Committee on the Judiciary, Forty-eighth Congress.]

Mr. William O. Stoddard, secretary to the President to sign land patents, at the time this [the Rancho Panoche Grande] patent was signed, testifies with respect to signing it as follows:

I remember signing a patent for Panoche Grande in the spring of 1863. * * * I remember the Panoche Grande patent as one of three brought to me about the same time, so that I remember them together. * * * I was very apt to examine the large patents, and this was a large one. I called the attention of others to it at the time. I called Mr. John Hay's attention to it, and I have tried very hard to remember the

names of the others who were in the room, and whose attention was called to it, but I do not remember them at this distance of time.

When asked the question whether he had any doubt on his mind that the indorsement on the patent which he signed was "Panoche Grande," Mr. Stoddard answers, "No, sir." He further testifies that he recollected distinctly that the patent which he signed was a patent for "Panoche Grande."

Hon. John P. Usher, Secretary of the Interior at the time the patent was executed, according to the record, has been examined as a witness in a case in court in which the title to the "Rancho Panoche Grande" was in controversy, and his testimony was before the committee. In reply to a question touching the delay in the delivery of the patent, he testifies as follows:

"I was Assistant Secretary of the Interior from some time in March, 1862, until about the 10th of January, 1863, when I became Secretary of the Interior, and held that office until the 15th of May, 1865. I was appointed to these offices by Abraham Lincoln. To the first office I had no predecessor. To the second my predecessor was the Hon. Caleb B. Smith, some years since deceased. My attention was first called to the claim of McGarrahan, or to the 'Rancho Panoche Grande,' by my predecessor, Mr. Smith, upon my going into his room in the Department of the Interior; I think the last evening he was there transacting business as Secretary. He spoke of the claim and called my attention to it. I knew that he had been very busily engaged in his official duties, but did not know what he had been doing; but when I went into his room, I was informed by him that he had made a decision in the 'Panoche Grande' case; that he had decided it in favor of McGarrahan, after a full and careful investigation; that he thought McGarrahan ought to have the land, and he particularly expressed the wish and hope that I should attend to it, and see that his decision was carried out at the Land Office. I recollect that he said he was satisfied the contestants to McGarrahan had no claim to the land, and were acting oppressively towards McGarrahan. * * * I can not answer whether the delay in issuing the patent was useful to the opponents of McGarrahan or not; but at the time it appeared to me that it might have been, for according to my recollection, sufficient time elapsed between the direction made by me, that the patent should issue, and the making the same ready for delivery, for the communication from Washington to California and return; and at that time, as we were on the point of delivering the patent (*it being ready for delivery, as I was informed*), Mr. Goold, whose given name I do not know, came on from California, in the interest of the contestants of McGarrahan, and made some communications to the Attorney-General, what, I do not recollect, if I ever knew, which influenced the Attorney-General to make a communication to the Department of the Interior requesting that the patent should not be delivered to McGarrahan, and upon the request of the Attorney-General the patent was withheld."

He testifies further as follows:

"I do not personally know that the patent was made ready for delivery at any time, for it was not in the course of the business of the Department for the Secretary to inspect and approve the patent, unless the Commissioner of the General Land Office desired some instruction upon that subject, *but I was informed in the course of business* that the patent was made and was ready for delivery on the day that Mr. Goold came to the Department, and I had no reason to doubt that the patent was so made. * * * I did receive a communication, or communications, verbal, I think, from the Land Office, from the Commissioner or his chief clerk, or the clerks having the preparation of the patent in charge, that the patent was ready for delivery, and this must have been on the day of Mr. Goold's first coming to the Department, for my recollection is that I had then immediately heard the patent was ready for delivery, or I then possessed myself of knowledge of the fact from the proper sources that the patent was so ready. I may have gone around to the Land Office and inquired, or sent for the Commissioner. My information was such that I had no doubt of the fact. * * *

Some time after the direction to the Commissioner not to deliver the patent (how long I can not say, but it may have been two weeks or a month), the President, Mr. Lincoln, at his apartments, inquired of me why I had not delivered the patent. This was the first time that I knew, or had any reason to suppose, that he knew anything about the case. I then told him all that I knew about it, and explained to him the reason why it had not been delivered. I narrated to him the conversation with my predecessor, Mr. Smith, and the interview with General Sickles and his party, the appearance of Mr. Goold, and the action of the attorney-general, Mr. Bates. *The President seemed to regret very much* the action of the Attorney-General, but he did not know, and I was unable to inform him then, why the Attorney-General had taken such action. He said, "Well, see Mr. Bates, and see if the patent can not be issued or delivered." * * * From time to time the subject of this patent was casually spoken of between the President and myself; how often I do not know. I was anxious that he should understand that I was doing all I could to

have the patent delivered. * * * The President from the first spoke of the patent as having been executed ready for delivery. He said, "Why have you not delivered the patent to McGarrahan?" This was the first time he mentioned the subject to me, * * * I knew of the condition of the patent as well as I could know anything I had not seen; and understood from his (the President's) question that he knew it was ready for delivery.

Simon Stevens, who is a relation of the late Hon. Thaddeus Stevens, and who spent half or two-thirds of every session of Congress with him in Washington while he was a member, testifies very fully with respect to certain conversations had in his presence between Mr. Lincoln and Mr. Thaddeus Stevens, with regard to the "Panoche Grande" patent, in one of which he swears Mr. Stevens said to Mr. Lincoln:

"If you are convinced that it is right, as Sickles says it is, sign the damned thing so as to get it out of the way."

This witness further testifies that on Saturday (which was the 14th day of March, 1863) he called upon the President on business for Mr. Stevens, and as he entered the room—

"The President was sitting at the head of the executive desk, and there was a large document lying on the corner of the table, and he pushed it toward me with a smile and said, "That damn thing is signed," simply quoting Stevens's language. Then, as he made the remark, a young gentleman entered the room of a peculiar countenance, and it happened to be Mr. Stoddard, who is now sitting in this room, and he took the document and carried it away, making some remark about the Land Office."

General Daniel E. Sickles, who, with General Thomas Francis Meagher, represented Mr. McGarrahan in the matter, testifies that, being unable to get the patent, and, as there was a difference between the Department of the Interior and the Attorney-General's Office, it remained for the President, as supreme executive, to give the proper order in the case, he (General Sickles) requested the President to look into the case and decide it, which the President agreed to do. For this purpose printed briefs were submitted. General Sickles then continues:

"Some time afterwards I received a message from the President through General Halpin ('Miles O'Reilly'), whose intimate relations with the President were well known, who told me—I think I was in New York at the time—that in a recent interview with the President in Washington, the President had desired him to say to me he had decided my case in my favor. General Halpin told me he said to the President, "I hope it is McGarrahan's case. I know Sickles is a friend of McGarrahan, and I heard the case was in your hands." The President said, as General Halpin told me, "Yes, that is the case. *I think McGarrahan is right*, and I have ordered, unless the Attorney-General, within 10 days, can show cause other and different than anything that has yet been shown, the patent must be issued." On my next visit to Washington, en route to or from the headquarters of the Army of the Potomac, I had an interview with the President, in which he told me substantially what I had already learned from him through General Halpin."

General Sickles further testifies that he afterwards called upon the President and asked him:

"As nothing but a mere matter of detail remained, to give a direction that the patent be delivered; the President *said it was signed*, and appeared surprised to hear that it had not been delivered."

General Sickles further testifies:

"I met ex-Attorney-General Black about that time. * * * It was a friendly conversation—that of two commanders reviewing a battle which had just been fought and concluded. Judge Black said we had got our patent, and that part of the fight seemed to be over, but that it was one thing to get the patent and another thing to get possession; that there were many resources of defense yet open, but that possession probably was a mere question of time, and that we would reach that point, no doubt, by and by; that his connection with the case was about at an end, and the seat of war would be now in California."

Henry Beard, a practicing lawyer, residing in the city of Washington, testifies that from some time in 1861 until early in 1865 he was a clerk in the Interior Department, and had charge of all communications and all business relating to public and private land claims in the Secretary's office. He says that he recollects very well the fact that a communication from the Attorney-General's office to the Secretary of the Interior, requesting a suspension of the issue of the patent in this case, was received. He further says:

"That communication from the Attorney-General's office came to my desk about the middle of the day, and the Secretary was absent. I knew it was an important communication. I knew the tract was large and valuable, and I knew that Smith and Usher had both examined the case; and shortly after it was received on my desk I carried it to the Acting Secretary, Judge Otto, and showed it to him. He was a little deliberate, and I think he probably said, 'This patent has been delivered.

This is too late.' We both knew it was some days after the patent had gone. He said I had better go over and see either Mr. Wilson or Edmunds, I have forgotten which, and inquire if that patent had been delivered."

In reply to the question, "What information did you get respecting it?" Mr. Beard says:

"*I was told that it was ready for delivery*, but it was not yet delivered; that was the substance of the information. I was told, also, that if the Secretary wanted to stop this he must send over a communication very soon."

In addition to the foregoing testimony it is shown by the examination of clerks employed in the private land claims division of the General Land Office that it was the custom in that office to leave the records of a patent unsigned until the patent itself was sent to the Executive office for signature; then upon its return the record book was completed to correspond with the patent; that the letters "Exd" indicated that the patent and the record had been compared and that they corresponded.

Mr. A. Chester, a witness called by the New Idria Mining Company, was asked, upon this point, the following question:

"Now, I wish you to examine the letters 'Exd,' in red ink on the left margin of that record on page 312, and say to the committee what it means.—A. I should say that that 'Exd' wherever found is the final examination, and never put on until it was executed—until there was a final examination; that is what I should suppose."

To the further question:

"Now, if you had never known there was any controversy over the subject-matter of this record—never heard of any, and the committee had asked you, 'Mr. Chester, what does that signify?' what would you have answered?—A. That it was a finally examined and complete patent."

And to this question, "That it gave evidence that there was a complete patent, executed duly, the signature of the President or his private secretary and the seal of the Land Office attached to it, and that it had been recorded and examined with the original and found to be correct; and then that red-ink mark 'Exd' had been placed there afterwards, would you not?" he answered "I should."

It is also shown by the testimony that the last thing to be done in the preparation and execution of the patent is the affixing of the seal of the General Land Office thereto.

It appears that Mr. McGarrahan knew nothing of the existence of this record in the General Land Office until the month of July, 1870. No patent was ever actually delivered to Mr. McGarrahan.

Hon. James F. Wilson, chairman of the Judiciary Committee of the House of Representatives of the Fortieth Congress, addressed a letter, dated the 17th day of January, 1867, to Hon. Joseph S. Wilson, then Commissioner of the General Land Office, requesting a copy of the patent which had been prepared and executed and never delivered in the case of the Panoche Grande land grant. The Commissioner on the following day replied by sending what he called "The original unexecuted patent for the Panoche Grande ranch." The same document was before the Senate Committee on Public Lands of the Forty-fifth Congress, at which time much testimony was taken in this case, as appears from S. Mis. Doc. No. 85, second session, Forty-fifth Congress, all of which has been before your committee. The testimony shows that this document consisted of eleven sheets of parchment containing the patent to the "Rancho Panoche Grande," as shown by the records, without the signature of the President, the date of its execution, and the seal of the General Land Office.

Mr. Julius N. Granger was the recorder of the General Land Office at the time the record of this patent was made. He was called to testify before the Judiciary Committee of the House on the 10th day of January, 1871, when he gave the following significant testimony:

"Q. Do you know whether the patent for Panoche Grande was ever presented to you or not to be countersigned?—A. No, sir; I could not say whether it was or was not.

"Q. You kept no records of cases for California land grants, which you countersigned, except of the letters of transmission?—A. Nothing except the letters of transmission.

"Q. Are these letters of transmission sent to you by the Commissioner of the General Land Office before you countersign the patent?—A. Yes, sir; always.

"Q. Are you prepared to say whether there was or was not a letter of transmission when the patent for Panoche Grande was sent to you?—A. I could only say that I never signed it without there was a letter.

"Q. Are you prepared to swear whether such a letter was sent to you?—A. No, sir; I am not.

"Q. Do you keep a file of these letters in your office?—A. I do keep them on file.

"Q. Have you made an examination of your files to see whether this letter is there on file?—A. I have.

"Q. State whether you can find any such letter.—A. I can find no such letter.

"Q. State in what way you keep those letters in your office.—A. I will state precisely. I place them in a drawer in my desk, where they remain until a considerable number has accumulated. I then take them out, bind them, and place them in my bookcase.

"Q. State whether you have looked in your bookcase for this letter.—A. Yes, sir; and also in my drawer.

"Q. State whether you have made more than one examination of your bookcase, and with what result.—A. The first time I made an examination was last summer, when I was called upon to know if there was such a letter. That was the first I heard anything about it. I looked the letters all over carefully, but did not find this letter. Sometimes the letters would become disarranged, or run over into another year, and I looked through tolerably careful, and noticed that there were letters for that year, 1863, which were missing.

"Q. State whether you have made an examination since that time.—A. Yes, sir; I took the letters out and put them together in the year in which they were written, and I found that in 1863 there were no letters from January down to June. The files of that year from July until December were all there.

"Q. State whether you are satisfied that between January and June, 1863, there were letters transmitted to you and filed by you in the regular course of business in your office.—A. I know there were such letters. I have taken great pains, for this is something that came unexpectedly upon me, to refresh my mind, and I find that there are fifty-one letters of transmission of land grants, under different acts, for my own division, between January and June, 1863. There were, of course, more patents than that; sometimes a single letter would inclose a large number of patents. The letter would simply say, 'Your signature is requested to series of patents from number such a one to number such a one.' That was all there was of the letter.

"Q. Then you say there were fifty-one letters of transmission which have been taken from your office?—A. They certainly must have been taken; at least I have had them, but can not now find them; they are out of my office, I am confident.

"Q. And letters coming to you from January to June, 1863?—A. Yes, sir.

"Q. Have you any knowledge of what has become of them?—A. I have not.

"Q. State to the committee whether, from an examination of your desk and lock, there is any evidence of there having been any interference with the lock or keys in any way.—A. I could not say that there has been any interference with it; it is a very common lock, which can be opened with a very common key; I always kept it locked. I ascertained this just on Saturday last, and yesterday when I came to my office I wanted to make a careful examination, for I knew there had been a large number missing from the files of the year 1863, and I wanted to see if I had these letters on record.

"Q. You made no record of the transmission of private land claims?—A. Never; I kept the letters themselves. When I went to my bookcase yesterday morning to look over my files again and compare them with the letter-book, I found an old key in the lock and the lock very much disturbed. The key I found was an old brass key, which was in the lock of my bookcase; it had evidently been used to unlock the lock, and then pulled back to get it out again. It remained in the lock.

"Q. Was that your key?—A. No, sir; I inquired carefully of others, and could find no one who had any such key.

"Q. Where did you find this key?—A. In my bookcase, where I keep may files.

"Q. And what did you say in regard to its use?—A. It had evidently disarranged the lock, so that the key could not be drawn out without a good deal of trouble.

"Q. When did you first make the discovery that these letters of transmission had been taken out of your possession?—A. Last summer; but I had not settled down in my mind that they were really lost. I expected to find them in some other place. I made the discovery in looking, after the adjournment of Congress, in regard to some matters before the courts, and I then had the letters overhauled and put into the files for the year in which they were written.

It appears from the testimony of James M. Armstrong, a witness on behalf of the New Idria Mining Company before the Senate committee, that what purports to be the unexecuted patent consists of eleven sheets or pages of parchment; that all the full pages preceding page 10 have thirty-eight lines; that page 10 has only thirty-one lines; that page 11 is not a full page, and that the general texture of the last two pages seems to be a little heavier than most of the preceding pages.

The last pages contain the *habendum and testimonium*, and it is claimed by Mr. McGarrahan that these last two pages have been substituted for the original last two pages, the last of which bore the signature of Mr. Lincoln and the seal of the General Land Office.

The committee have had before them the sworn testimony of General Daniel E. Sickles, taken under a commission issued out of the district court for the twentieth judicial district of California, in a case between the claimant, William McGarrahan

and the New Idria Mining Company, taken on the 2d day of July, 1873, at Madrid, while General Sickles was minister to Spain, in addition to that taken by a committee of Congress, from which a quotation has already been made, in which General Sickles, in answer to one of the questions propounded to him, makes answer as follows:

"Early in 1864 I was ordered south by the President, and before my departure, which I believe was in February, I spoke to the President again about the patent. I asked him to sign it before I left town. *He said he had signed it,* and expressed surprise on learning from me that I had not received it. I mentioned the matter again to Mr. Usher, and stated that I had learned from the President that the patent had been signed; and as I expected to be absent for several months, in the South, I wished, before I left town, to send the patent to McGarrahan, who was then in California. He said I should have it. I saw the Secretary afterwards in consequence of a message received from him, when he told me that Mr. Sweet, a Government agent, had written or telegraphed advising further delay."

General Sickles appends to his deposition an autograph letter from President Lincoln to him, which is as follows:

"WASHINGTON, D. C., *August 22, 1863.*

"Major-General SICKLES:

"MY DEAR SIR: Your note and brief about the California land claim are received. *The question presented is a property question,* with which I do not think I should meddle as a volunteer. It will save me labor, therefore, if you will first point me to the law which assigns any duty to the President in the case. This done, next send me a reference to the treaty and all the statutory law which bears upon the case.

"Yours, truly,

"A. LINCOLN."

The italics are ours. Mr. Lincoln was not only a man of rare good sense, but he was besides a lawyer of recognized ability. He certainly knew that he had the power to sign land patents, and that in a matter of the mere signing of a land patent he could not have been a meddler. Therefore, so far as he was concerned, *he* knew the question presented to him was one more far-reaching than the signing of a land patent. General Sickles was ignorant of the fact at the time that Mr. Lincoln had already signed the patent, and, perhaps, did not fully appreciate what Mr. Lincoln said about the question presented being "a property question," but to us this letter amounts to a demonstration that Mr. Lincoln knew when he wrote it that the patent had been already signed. Whether he should go farther as President, or leave the settlement of this "property question" to the decision of the courts, was the matter which disturbed him.

The committee, in view of the positive and uncontradicted testimony of so many trustworthy witnesses that the patent was signed by the President and ready for delivery, in connection with the record in the General Land Office of an executed patent, and other testimony before them, are forced to the conclusion that the patent was executed and ready for delivery, and that the President, after argument, directed the delivery of the patent.

The committee, without entering into its details, append hereto as Exhibit E—the additional testimony taken by the claimant since the decision was rendered by the land commissioners, corroborative of what was taken before them.

The fact that the genuineness of the *espediente,* found in the Mexican archives, is not now and never has been questioned; and the further fact that during the thirty years and more which have elapsed since the testimony was taken before the land commissioners it has not been impeached in the least particular, notwithstanding the abundant resources of those who have been contesting this claim are noteworthy, and, when considered in connection with the additional testimony in the case, remove all doubt of the grant to Gomez; and when it is shown that Gomez had a grant protected by the treaty of Guadalupe Hidalgo, that fact must necessarily carry with it all its legitimate consequences.

The Supreme Court in one of the California land cases, speaking with respect to the spirit in which they should be considered, say:

"The cession of California by the treaty of Guadalupe Hidalgo did not impair the rights of private property. They were *consecrated* by the law of nations and protected by the treaty. The treaty was a formal recognition of the pre-existing sanction of the law of nations. The act of March 3, 1851, was passed to assure the inhabitants of the ceded territory the benefits of the rights of property secured to them. It recognizes alike legal and equitable rights *and should be administered in a large and liberal spirit.* A right of any validity before the cession was equally valid afterwards; and while it is the duty of the court in the cases which come *before it to guard* carefully against claims originating in fraud, it is equally their *duty to see that* no rightful claim is rejected. No nation can have any higher interest than the rightful administration of justice."

The honor of the nation is pledged to the faithful execution of its treaty obligations. Treaties are declared by the Constitution to be the supreme law of the land, and a powerful Government like ours should be more zealous to keep faith with a weak one like Mexico than with a stronger one. And there certainly can be no hardship to the Government in permitting the Mexicans to retain and enjoy their private property, according to the terms of the treaty, because the vast domain which the Government acquired as public lands by reason of the cession of California is of almost incalculable value.

The committee have bestowed a great deal of time, labor, and attention upon this case, in order to ascertain its real facts and merits. Mr. McGarrahan, by himself and counsel, and the New Idria Mining Company, the only party contesting his claim, by its counsel, have been heard patiently and at great length. They have reached the following conclusions:

1. That the proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. That the district court of the United States for the southern district of California confirmed the grant.

3. That Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

4. That Mr. Usher, the successor in office of Mr. Smith, similarly decided.

5. That Mr. Lincoln signed the patent, and afterwards, upon full inquiry, decided the grant to be genuine, and ordered the delivery of the patent to Mr. McGarrahan.

They therefore report the accompanying bill as a substitute for the bill (H. R. 1980) by which the title to the Rancho Panoche Grande is confirmed to William McGarrahan in accordance with the provisions of the act of March 3, 1851, with a provision that if any portion of said tract shall have been legally disposed of to innocent purchasers by the United States, the same shall be excepted from the operation of the provisions of the act; and with the further provision that the act shall not apply to any person who in good faith, with intent to obtain title to any portion of said tract of land as public lands, under the laws of the United States, has settled upon the same.

The second section provides for indemnity to said William McGarrahan for such portions of said tract of land as may have been or may hereafter be legally disposed of to innocent purchasers as aforesaid. The question of the rents, issues, and profits including minerals if they passed under the grant as confirmed by the act, is referred to a commission to be appointed by the President, with the right of appeal to the supreme court of the District of Columbia, and finally to the Supreme Court of the United States.

The reason why your committee recommend that jurisdiction be given to the supreme court of the District of Columbia rather than to the United States court of California is that it will be less expensive and troublesome to both parties for the litigation, if any should arise, to be conducted in that court.

The appropriation to carry into effect the act, limited to $5,000, is recommended, because the previous action of the Government has rendered it necessary, and because the Government is interested in the proper and final settlement of the controversy, and should pay its proportion of the expenses.

The power of Congress to grant the relief thus granted has been doubted to a certain extent. Perhaps we can not better reply to the suggestion of such a want of power in a case of this kind, leaving out of view the duty of Congress to grant relief, than by reproducing here what a distinguished constitutional lawyer said in the United States Senate, in a debate upon a bill which involved this question a few sessions ago. He said:

"Mr. President, I am not unmindful of the character of the tribunal I am addressing to-day. I am not here before a court which strains itself on tiptoe to measure the phraseology of a sentence in a statute. I am here before a body representing the sovereignty and the power of a great people. I am here before a body that has authority to set aside the law if the interests of justice or humanity demand it. I am not addressing myself to the creature of the statute. I am making no appeal to the Court of Claims, or to any other inferior tribunal, which has no power to move a step unless it finds it in the authority of the written law. I am here addressing myself to the great power of the Senate, representing in part the sovereignty of this Government, from which there is no appeal.

"This question has been argued as though it was a question of law presented to a court of limited jurisdiction, bound down and tied down by the narrow and technical rules of jurisprudence. We are in no such body, sir, and this is not, in my judgment, the kind of case in which it can be said that the Supreme Court has made the law on the subject. Sir, the Supreme Court, with all its great dignity and power, does not make the law for the Senate of the United States. It may expound and interpret the laws that we enact for its government and guidance, but it makes no laws for us. This is not a contest between individuals where, when the court decides the case,

system of the United States, as shall equal in value, at the prices established by law, according to the findings of said commissioner or the court, as the case may be, the portion of said tract so disposed of by the United States, and the rents, issues, and profits as aforesaid; and the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, is hereby authorized and directed to issue scrip, in legal subdivisions, to the said William McGarrahan, or his legal representatives, in accordance with the provisions of this section of this act; and the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to carry into effect the provisions of this act, to be paid upon the certificates of the Secretary of the Interior.

PATRICK A. COLLINS.
WILLIAM C. MAYBURY.
H. BISBEE, JR.

EXHIBIT G.

JOINT RESOLUTION in regard to the "Panoche Grande" land grant.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, directed to cause the record on pages three hundred and twelve and three hundred and twenty-one, inclusive, in volume four of "California Land Claims," of the patent of a tract of land known as the "Panoche Grande," as set forth therein, to be transcribed into the records as the same stood on the record book of the General Land Office at the time it was examined, without any mutilation or erasure whatever, so that the legal effect of the record so transcribed shall be the same as if the original record had never been interfered with or mutilated; and when such record shall have been so made as herein provided it shall be marked "examined," as it was originally marked. And the President of the United States is hereby authorized and required to do in the premises whatever may, in his judgment, be just and equitable, without regard to any action or proceeding had subsequent to the fourteenth day of March, eighteen hundred and sixty-three, the date of the patent recorded.

Passed the House of Representatives February 20, 1871.

Attest: EDWARD MCPHERSON,
Clerk.

The record of the patent as printed in this report is marked in red ink in the books of the General Land Office "Ex'd," the official meaning of which is that the record of the patent had been compared with the parchment patent and found correct.

There is no record of a patent in the California land grants having "Ex'd" on it which did not carry the title to the property it represents, except the record in question.

GEORGE McALPIN.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MAHON, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2717.]

The Committee on War Claims, to whom was referred the bill (H. R. 2042) for the relief of George McAlpin, report as follows:

This case was referred to the Committee on War Claims of the Fifty-second Congress, and was favorably reported upon by that committee. After an investigation of the facts involved, the report of that committee is adopted, a copy thereof being attached hereto, and your committee recommend the passage of the bill.

[House Report No. 2186, Fifty-second Congress, second session.

The Committee on War Claims, to whom was referred the bill (H. R. 8200) for the relief of George McAlpin, to repay him moneys unlawfully collected from him by the United States, respectfully make the following report:

George McAlpin was appointed sutler of the Eleventh Pennsylvania Cavalry in November, 1862, and served in that capacity down to the close of the war, in 1865. His appointment was made under the act of March 19, 1862, providing for the appointment of sutlers for each regiment in the public service. This regiment served in the Army of the James, in the State of Virginia. As sutler he was required to purchase goods, which he did mostly in the city of Baltimore, from which city they were shipped through the lines to the point where the regiment was in service, under regulations regulating such service. Between the 3d of November, 1862, and the 12th of May, 1865, Mr. McAlpin purchased sutler's stores, mostly in Baltimore, provided for in said act and the revised schedules provided for therein, and had them consigned to himself at different points in the State of Virginia—Old Point, Newport News, Suffolk, Portsmouth, Norfolk, Yorktown, Williamsburg, Bermuda Hundred, Fort Monroe, and other points. Between these dates he purchased and shipped goods to the amount of $235,074.69, which were cleared through the custom-house at Baltimore. The amount of stores so shipped appears from the certified statements from the custom-house at Baltimore.

Under the fifth section of an act entitled "An act further to provide for the collection of duties on imports and for other purposes," it is provided—

"That the President may, in his discretion, license and permit commercial intercourse with any such part of a State or section the inhabitants of which are so declared in the state of insurrection, in such articles, and for such time, and by such persons as he in his discretion may think most conducive to the public interest, and such intercourse, so far as by him licensed, shall be conducted and carried on only in pursuance of rules and regulations prescribed by the Secretary of the Treasury. And the Secretary of the Treasury may appoint such officers at places where officers of the customs are not now authorized by law as may be needed to carry into effect such licenses, rules, and regulations, and officers of the customs and other officers shall receive for services under this section and under said rules and regulations such fees and compensation as are now allowed for similar service under other provisions of law."

Under the provisions of this act certain regulations were prescribed by the Secretary of the Treasury, and, among others, one with reference to the transfer or clearing of sutlers' goods through the custom-house.

Under the heading "Sutlers' permits, how obtained and upon what conditions," is regulation 24, as follows:

"Permits will be granted to sutlers to transport to the regiments sutlered by them such articles as they are authorized to sell *free of the 5 per cent fee;* but no permit will be granted to a sutler except on presentation to the proper permit officer of the original certificate of his appointment, or the commanding officer of his regiment, countersigned by the division commander thereof, and an application and affidavit in the form prescribed. Transportation shall not be permitted to any sutler of any amount of goods exceeding $2,500 per month, nor for over two months' supply at one time, nor for any goods except such as he is by law and War Department orders allowed to deal in."

Trade regulation 42:

"Fee for permit so to purchase or sell and transport to or from such district other products, goods, wares, or merchandise, 5 per centum on the sworn invoice value thereof at the place of shipment. Fee for each permit for individual, family, or plantation supplies on every purchase over $20 and not over $50, 5 cents."

Subsequently, on March 21, 1864, this regulation was modified by the Secretary of the Treasury, as follows:

"The forty-second trade regulation, series of September 11, 1863, is hereby so far modified that on and after the 1st day of April next the invoice valuation permit fee on shipments to and from insurrectionary districts will be 3 per cent instead of 5, as therein prescribed."

Mr. McAlpin complied with all the rules and regulations relative to his appointment and qualifications, procuring the proper certificate and making the necessary affidavit to bring him within all the provisions of the act regulating his appointment and the regulations thereunder, above prescribed.

By a mistake of the custom house officers at the custom-house in Baltimore, Mr. McAlpin was charged 5 per cent and 3 per cent fees on all such shipments through the custom-house, charging them to him as a trader instead of under the regulation above mentioned for sutlers. The amount of payment so made was $6,906.18.

Under the above acts of Congress and the regulations mentioned, no fees should have been charged on sutler's goods such as were shipped by Mr. McAlpin through the custom-house at Baltimore, and, therefore, the amount paid by him to the Government, to wit, the said sum of $6,906.18, was wrongfully collected from him, as there was no law or regulation of the Treasury authorizing such collections.

Your committee finds from the evidence adduced before them that the said sum was paid to the United States through the custom-house at Baltimore without any warrant of law.

Your committee also find, from the evidence adduced, that Mr. McAlpin fully complied with all the laws, rules, and regulations governing the duties of sutlers and paid all the legal fees and taxes relating to the office of army sutler, and, therefore, respectfully recommend the passage of this bill.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 53.

HEIRS OF ROBERT J. SMITH AND OTHERS.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCLAURIN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany Mis. Doc. 32.]

The Committee on War Claims, to whom was referred House bills 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, and 1450, have had the same under consideration, and beg leave to report as follows:

Your committee are of the opinion that these claims should be referred to the Court of Claims for adjudication, in accordance with the provisions of sections 1059, 1060, and 1061, Revised Statutes of the United States, and report herewith a resolution to that effect and recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 54.

W. B. MORROW.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1309.]

The Committee on War Claims, to whom was referred the bill (H. R. 1309) for the relief of W. B. Morrow, reports as follows:

This claim was presented in the Fifty-Second Congress and was favorably reported upon by the Committee on War Claims of the House of Representatives, to whom it was referred. After a careful investigation of the facts involved, your committee adopt the report of the committee of the Fifty-second Congress, a copy thereof being hereto attached and made a part of this report.

This claim was never presented to the Quartermaster-General for adjudication under the provisions of the act of July 4, 1864, for the reason that the claimant removed to the State of Texas shortly after the taking of his property, and was ignorant of the passage of the act of July 4, 1864, requiring claimants to file their claims in the Quartermaster-General's office.

Your committee report back the bill and recommend its passage.

[House Report No. 282, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the petition of William B. Morrow, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and report herewith a bill and recommend its passage.

[House Report No. 893, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2150) for the relief of W. B. Morrow, report as follows:

Your committee adopt the report hereto annexed, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

[Fiftieth Congress, second session. House Report No. 3824.]

The Committee on War Claims, to whom was referred the bill (H. R. 2981) for the relief of William B. Morrow, respectfully report:

That the claim is for stores and supplies taken from the claimant by the Army of the United States during the late war. Claim stated at $4,078.55.

It appears from the proof submitted that in September, 1862, United States troops took from the claimant's plantation, in Hardeman County, Tenn., for the use of the Army, quartermaster's stores and commissary supplies of the value of $4,078.55; that the claimant was throughout that war loyal to the Government of the United States.

Your committee are of opinion that the account is correct and just, and that the stores and supplies were taken as charged; that he has not received pay or compensation therefor from any source, either in whole or in part, but that the same is still due and owing to him from the United States, and report back the bill and recommend its passage.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 55.

LOUIS PELHAM

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCNAGNY, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1589.]

This claim was presented to the Fifty-second Congress, and a report was made in regard to it by the Committee on War Claims on the 20th of December, 1892. As the examination by your committee has led them substantially to the same results with those arrived at by the committee of 1892, they do not think it necessary to recapitulate the facts or restate the conclusions reached, but refer to that report, and herewith annex a copy for information and for incorporation herein.

Your committee recommend that the bill referred to them do pass.

[House Report No. 2185, Fifty-second Congress, second session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9522) for the relief of Lewis Pelham, respectfully report as follows:

This is a bill to refund money wrongfully paid out by Louis Pelham, and illegally collected from him, under certain confiscation proceedings against the property of Henry Pelham in the district court of the United States, in the State of Indiana, the sum of $3,000 having been illegally taken and collected from him by the marshal of the United States for said district court of Indiana upon the sale of a certain promissory note for $7,000, executed on the 1st day of March, 1862, due four years after date, executed by Lewis Pelham to the said Henry Pelham, and sold upon a *venditioni exponas* under a libel of information in said district court to the said Lewis Pelham, when in fact the marshal of said district had not under the mandate of the writ of monition attached the said note, nor had he seized the same, nor had it ever been in his custody from the commencement to the end of the proceedings thereon.

The said note had not been at any time within the jurisdiction of said district court, and the said note was not at the time of the sale of the same, nor at the time of paying the said sum of money to the said marshal as the purchaser thereof by the said Lewis Pelham, nor at any time thereafter by the marshal of said district court delivered to him, nor did he acquire any title whatsoever to said note under said proceedings, and the said promissory note was never in the territorial limits of the said State of Indiana, but, on the contrary, was during all that time in the possession of Henry Pelham, in the State of Kentucky, where the said Henry Pelham resided.

The United States, in 1863, filed a libel of information in the district court for the district of Indiana "against the following-described credits and effects of Henry Pelham, that is to say, one promissory note, dated March 1, 1862, for the sum of $7,000, and due four years after date, executed by Lewis Pelham to Henry Pelham." Lewis Pelham was still in Indiana and within the jurisdiction of the marshal; but Henry Pelham was in Kentucky, outside of the marshal's jurisdiction, and had the note with him there. The libel, after reciting the act of July 17, 1862, and making other proper recitals, alleged that, "by force of the said statute and the public warning of the President of the United States, the said estate, credits, and effects of him, the said Henry Pelham, so described as aforesaid, became and were forfeited to the United States, and that the same were liable to be condemned as enemies' property."

The writ of monition stated a libel had been filed by the district attorney against "one promissory note," and commanded the marshal "to attach the note and to detain the same in your custody until the further order of the court concerning the same," and "to give due notice to all persons claiming the same," etc.

The marshal made return, on the back of the writ, as follows:

MAY 2, 1863.

In obedience to the within warrant I have arrested the property within mentioned and have cited all persons having or pretending to have any right, title, or interest therein, as by the said warrant I am commanded to do.

D. G. ROSE,
Marshal.

A summons was at the same time issued against Lewis Pelham, the maker of the note, which was served on him by the marshal, and he appeared and answered, admitting the facts alleged in the libel.

The fact of a publication of notice to all other parties in interest was proven, and a decree of condemnation was made, and a writ of *venditioni exponas* issued to the marshal, who returned that he had offered for sale the promissory note and sold it to Lewis Pelham for $3,000.

When the war was over Henry Pelham sued the sureties of the marshal (he being dead) in the district court for the district of Kentucky, for damages alleged to have accrued by the marshal's false return in the case. The declaration alleged a false return "to a writ of monition in a libel by the United States against the described credits and effects of Henry Pelham, * * * that is to say, one promissory note for $7,000, executed by Lewis Pelham to the said Henry."

It was an admitted fact in the case that the note was, from the issuing of the monition in the proceedings for confiscation till and at the time of the return to the monition by the marshal that he had arrested the same, outside the jurisdiction of the said district court and not within the territorial limits of the State of Indiana; but, on the contrary, was, during all that time, in the possession of the said plaintiff in the State of Kentucky, where he resided.

The plaintiff requested the court to instruct the jury as follows:

"If the jury find, from the evidence, that the allegations of the declaration are true, they will find for the plaintiff and assess his damages in the amount of the note, with interest thereon from maturity."

The court refused to give this instruction and charged that, under the conceded facts in the case, the plaintiff was entitled to no more than nominal damages.

A verdict was rendered accordingly, and the refusal to charge as requested and the charge as given were then assigned to the Supreme Court of the United States for error. The Supreme Court held that to effect its seizure it was necessary for the marshal to take the note into his actual control and custody, and consequently the debt was not confiscated. (15 Wallace, p. 196; 9 Wallace, p. 103.)

Every principle of equity and justice, then, requires that the Government should refund the money received without consideration and for property which it did not control and had no right to sell, for "a vendor," says the Supreme Court of the United States, "is bound to know that he actually has that which he professes to sell." (Allen *vs.* Hammond, 11 Pet., 72.)

"A court of equity," said Chief Justice Marshal, in Garnett *vs.* Macon, 2 Brock., 185, "considers a vendor responsible for the title he sells, and is bound to inform himself of its defects," and to make the same known to the purchaser, as the latter has a right, if no liens or incumbrances are made known to him by the vendor, to suppose himself as purchasing an estate free from incumbrance.

Where a vendor intends to sell and the vendee to purchase a subsisting title, but which in fact *does not exist*, a payment of the purchase money, says the Supreme Court of the United States, "would be a payment without the shadow of consideration, and no court of equity is believed ever to have sanctioned such a principle."

Claimant is, therefore, on the score of precedent as well as authority, justly and honestly entitled to a return of his money.

The proof accompanying the bill shows that Lewis Pelham was an extremely loyal person.

Your committee, therefore, report back the bill and recommend its passage with the following amendments:

In line 6, after the word "thereon," insert "at the rate of 6 per cent per annum," and in line 7, after "sixty-three," insert "until paid."

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 56.

CUMBERLAND FEMALE COLLEGE, McMINNVILLE, TENN.

OCTOBER 3, 1893.—Committed ro the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Tennessee, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1491.]

The Committee on War Claims, to whom was referred the bill (H. R. 1491) for the relief of Cumberland Female College, of McMinnville, Tenn., submit the following report:

The facts of this claim are fully set forth in a report made by this Committee to the House in the Fifty-first Congress, which is as follows:

[House Report No. 2647, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9688) for the relief of Cumberland Female College, submit the following report:

Cumberland Female College, of McMinnville, Tenn., was chartered under the laws of Tennessee in 1851, the cost of the building, etc., being about $25,000. From 1851 to 1861 it was in successful operation. In 1862 the buildings were seized by the Federal forces and converted to hospital use. From its seizure in 1862 until the close of the war the school grounds and buildings were almost continuously used by the Union Army for hospital purposes, the town of McMinnville being held as a permanent military post. The property was in fine condition when seized in 1862. When the war ended the buildings and grounds were in a badly wrecked condition, the furniture broken and destroyed, and the apparatus almost entirely ruined.

The evidence fully shows that a conservative estimate of the damage to the grounds buildings, furniture, and apparatus would place the loss at not less than $5,000, and that the further sum of $2,500 would be a moderate compensation for the use and occupation of the premises.

In view of the foregoing your committee recommend the passage of the bill with the following amendment:

In line 6 strike out "ten thousand" and insert in lieu thereof "seven thousand five hundred."

In the Fifty-first Congress this claim was not reached on the calendar, but in the Fifty-second Congress it passed both Houses and went to conference, the two Houses not agreeing as to the amount, and that committee reported as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2122) for the relief of Cumberland Female College, of McMinnville, Tenn., having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments and agree to an amendment, as follows:

Strike out all after the word "appropriated," in line 6, and insert in lieu thereof the following: "The sum of $5,000 for use and occupation of the college buildings and premises as a hospital during the years 1862, 1863, 1864, and 1865, by the military authorities of the United States, the same to be accepted and receipted for

in full of all claims of the said Cumberland Female College against the United States;" and the House agree to the same.

JOHN W. DANIEL,
S. PASCO,
W. A. PEFFER,
Managers on part of Senate.
B. A. ENLOE,
W. J. STONE,
JOHN C. HOUK,
Managers on part of the House.

The conference report was adopted by both Houses, but the act did not reach the outgoing President in time to be signed on March 4, 1893, failing only by an hour or less to become a law.

The committee recommends the passage of the bill (H. R. 1491), with an amendment striking out the words "ten thousand five hundred," in lines 6 and 7 of the bill, and substituting the words "five thousand," the amount recommended by the conference committee of the Fifty-second Congress.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 57.

CATHERINE CAINE.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILSON, of Ohio, from the Committee on the War Claims, submitted the following

REPORT:

[To accompany H. R. 952.]

The Committee on War Claims of the Fifty-first and Fifty-second Congresses reported favorably bills substantially like the present bill. The governor of Illinois commissioned Rev. Charles Caine to be chaplain of a military organization designated as "Yates's Sharpshooters," which afterwards became the Sixty-fourth Regiment Illinois Volunteer Infantry. Rev. Charles Caine served as chaplain of said organization from January 1, 1862, to July 31, 1862. But he received no pay because there were only six companies of "Yates's Sharpshooters," and the paymaster declined to pay him on the ground that such number of companies were not entitled to a chaplain.

The committee recommend that the bill be amended by striking out of line 8 the words "tenth" and "December," and inserting "first" and "January;" and in line 9, strike out the words "sixty-one," "March," and "sixty-three," and insert "sixty-two," "August," and "sixty-two," so as to allow pay from January 1, 1862, to August 1, 1862; and when so amended, the committee recommend the passage of the bill.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 58.

WILLIAM JOHNSON.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ENLOE, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 722.]

The Committee on War Claims, to whom was referred the bill (H. R. 722) for the relief of William Johnson, administrator of Thomas I. Johnson, deceased, of Fayette County, Tenn., as found due by the Court of Claims under the act of March 3, 1883, reports as follows:

That this claim was referred to the Court of Claims for a finding of facts under the provisions of the act known as the "Bowman act," approved March 3, 1883.

Said claim has been returned with a report and findings, which are as follows:

[Court of Claims. Congressional—Facts and loyalty. No 3614. William Johnson, administrator of Thomas J. Johnson, deceased, *vs.* United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion was transmitted to the court by the Committee on War Claims of the House of Representatives on the 10th day of April, 1888.

Gilbert Moyers, esq., appeared for claimant, and the Attorney-General, by J. H. Nixon, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

On a preliminary inquiry the court, on the 23d day of May, 1892, found that the person alleged to have furnished the supplies or stores or from whom they were alleged to have been taken was loyal to the Government of the United States throughout said war.

The case was brought to a hearing on its merits on the 13th day of October, 1892. The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in Fayette County, State of Tennessee, where decedent resided during the late war of the rebellion; that at different times during said period the United States forces, by proper authority, took from the decedent quartermaster stores and commissary supplies of the value of $22,387.75, and appropriated the same to the use of the U. S. Army, as follows:

17 mules and 4 horses, in all 21 head of stock, at $150 per head	$3,150.00
900 cords of wood	1,950.00
19,000 pounds of fodder, receipted for, at $2 per hundred	380.00
503,000 feet of lumber, at $20 per M	10,060.00
July, 1862:	
1 set blacksmith tools and shop, complete	200.00
30 bushels oats, at $1	30.00
2,540 bushels corn, at $1	2,540.00
1 heavy iron-axle wagon	100.00

July, 1862—Continued.

16,500 pounds fresh pork, at 10 cents	$1,650.00
7,000 pounds of beef, at 7 cents	700.00
200 bushels of potatoes, at $1	200.00
3 barrels of flour, at $12 per barrel	36.00
5 barrels of molasses, 210 gallons, at $1	210.00
290 pounds sugar, at 20 cents	58.00
5,120 pounds cured meat, at 20 cents	1,024.00
100 pounds of sausage meat, at 25 cents	25.00
100 pounds mackerel, at 10 cents	10.00
200 pounds dried beef, at 25 cents	50.00
20 pounds lard, at 15 cents	3.00
5 bushels pease, at $2	10.00
3 bushels corn meal, at $1.25 per bushel	3.75
Aggregating in value	22,389.75

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACTS:

I.

That during the war of the rebellion there was taken from the claimant, now deceased, Thomas I. Johnson, by proper military authority, for the use of the U. S. Army, stores and supplies amounting in value to the sum of $13,378.

II.

That no payment appears to have been made for said stores and supplies.

BY THE COURT.

Filed October 10, 1892.
A true copy.
Test, this 6th day of December, A. D. 1892.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

Your committee, therefore, report the accompanying bill for the payment of the amount found due by the Court of Claims and recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 59.

ROBERT TRAVILA.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HERMANN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 894.]

The Committee on War Claims, to whom was referred the bill (H. R. 894) for the relief of Robert Travila, reports as follows:

This claim was presented in the Fifty-second Congress and was favorably reported upon by the House Committee on War Claims, to whom it was referred. After a careful investigation of the facts involved, your committee adopt the report of the committee of the Fifty-second Congress, a copy thereof being hereto attached and made a part of this report, and recommend that the bill do pass.

[House Report No. 286, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 3119), for the relief of Robert Travila, submit the following report:

The facts of this claim are fully stated in a report made by this committee to the House in the Fifty-first Congress, which is appended as a part of this report.

Your committee concur in the conclusions stated in that report and reccommend the passage of the bill.

[House Report No. 885, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 7472) for the report of Robert Travila, report as follows:

The facts out of which this bill for relief arises will be found stated in House report from the Committee on War Claims of the Fiftieth Congress, a copy of which is hereto annexed for information.

Your committee adopt the said report as their own, and report back the bill and recommend its passage.

[House Report No. 2012, Fiftieth Congress, first session.]

This bill is for the relief of Robert Travila, a private soldier of Troop K, First United States Cavalry.

The application on behalf of this soldier alleges that he lost by accident, not carelessness, a Spencer carbine—property of the United States—and that he was charged $100 for it and the said sum was deducted from his pay and withheld from him and never paid to him, and he now demands repayment of the difference between the price charged and the cost of the weapon, $75.

The committee inquired of the War Department, and are informed by letter from the Adjutant-General's Office that the records of that office show that Private Robert Travila, Troop K, First United States Cavalry, was charged on muster roll for January and February, 1868, $100 for loss, "through carelessness," of one Spencer carbine. The charge was made in accordance with the provision of General Orders No. 19, dated March 16, 1867, War Department, which provides that enlisted men who may dispose of or lose through their own carelessness the Spencer carbine will have charged against them upon the muster rolls the price of the arm at $100.

It appears that this soldier was traveling with his troop in Arizona in 1867, in a mountainous region, and strapped his gun on his saddle, and it must have slipped out and was lost, which may have been carelessness, but not criminal, and perhaps not at all gross carelessness even.

A letter of Chief of Ordnance states that a Spencer carbine now costs $10.67; it perhaps cost $24.40 in 1867, and as far west as Arizona.

If the Secretary of War had the power to deprive a soldier of his salary in time of peace, which is not admitted, the fact is that the Government has $75.60 of the money earned by this soldier now in its possession, and ought to give it up.

The committee therefore report the bill back, with the recommendation that it pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 60.

ALLOWANCE OF PENSIONS.

OCTOBER 4, 1893.—Ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany House resolution of September 9, 1893.]

The Committee on Invalid Pensions have considered the resolution of September 9, 1893, requesting the Secretary of the Interior to furnish certain information as to the allowance of pension claims and submit the following report:

Your committee are advised that the data desired is easy of access and its collation will devolve but very little labor upon the Pension Bureau. The information requested is given in part only in the Annual Report of the Commissioner of Pensions, that report having reference only to the year ended June 30, 1893, while this resolution relates to the year ending September 1, 1893.

Your committee therefore unanimously recommend the adoption of the resolution, herewith returned.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 54.

W. B. MORROW.

OCTOBER 3, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. COOPER, of Texas, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 1309.]

The Committee on War Claims, to whom was referred the bill (H. R. 1309) for the relief of W. B. Morrow, reports as follows:

This claim was presented in the Fifty-Second Congress and was favorably reported upon by the Committee on War Claims of the House of Representatives, to whom it was referred. After a careful investigation of the facts involved, your committee adopt the report of the committee of the Fifty-second Congress, a copy thereof being hereto attached and made a part of this report.

This claim was never presented to the Quartermaster-General for adjudication under the provisions of the act of July 4, 1864, for the reason that the claimant removed to the State of Texas shortly after the taking of his property, and was ignorant of the passage of the act of July 4, 1864, requiring claimants to file their claims in the Quartermaster-General's office.

Your committee report back the bill and recommend its passage.

[House Report No. 282, Fifty-second Congress, first session.]

The Committee on War Claims, to whom was referred the petition of William B. Morrow, submit the following report:

This measure was considered by this committee during the first session of the Fifty-first Congress, and was reported upon favorably, which report is appended as a part of this report.

Your committee concur in the conclusions stated in that report and report herewith a bill and recommend its passage.

[House Report No. 893, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 2150) for the relief of W. B. Morrow, report as follows:

Your committee adopt the report hereto annexed, made by the Committee on War Claims of the Fiftieth Congress, and report back the bill and recommend its passage.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 63.

LENNES A. JACKSON.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2581.]

The Committee on Claims, to whom was referred the bill (H. R. 2581) for the relief of Lennes A. Jackson, have had the same under consideration and find the following facts:

It appears from the evidence in the case that the claimant, Lennes A. Jackson, of Coldwater, Mich., has been for more than two years last past employed as deputy collector of internal revenue at Coldwater, first district of Michigan; that his duties consisted of selling cigar and beer stamps to cigar manufacturers and brewers at Coldwater for James H. Stone, collector of the district; that he was so employed on the 1st and 2d days of March, 1892, during which two days he sold cigar stamps to the amount of $270, as shown by his report to his superior officer covering such period, an authenticated copy of which is filed with the papers in the case.

It further appears from the testimony that it was his invariable custom to keep all funds received by him from the sale of such cigar and beer stamps entirely separate from other funds; that he was cashier of the Coldwater National Bank, and that in order to safely keep the funds aforesaid it was his invariable custom to place them at the close of each day in the vault of said bank, and inside a safe supposed to be burglar proof inside said bank vault.

It further appears that in the night of the 2d of March, 1892, the Coldwater National Bank of Coldwater was entered by burglars, the vault broken into, and the "burglar-proof safe" blown to pieces, and the above mentioned $270, proceeds of the sale of cigar and beer stamps by said Jackson for the 1st and 2d days of March, 1892, were stolen and carried away, together with a large amount of the money belonging to said bank; that the same has not been recovered, nor is there any probability, from the testimony in the case, that it ever will be; that said claimant has out of his own private funds reimbursed the United States said amount by depositing the same to the credit of the Treasurer of the United States, and for which certificate of deposit No. 3982, dated March 7, 1892, has been issued.

It is made clear to your committee that said loss did not occur through any lack of care or diligence upon the part of said Deputy Collector Jackson, and in view of all the circumstances it is the opinion of your committee that he should be reimbursed the amount by the United States.

The committee, therefore, report back this bill and recommend that it do pass.

O

WILLIAM H. QUINN.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3605.]

The Committee on Claims, to whom was referred the bill (H. R. 3605) for the relief of William H. Quinn, submit the following report:

That the facts upon which this claim is based sufficiently appear in the findings of fact by the Court of Claims in William H. Quinn *vs.* The United States, which are below given in full and made a part of this report.

Your committee are of opinion that the claim is a just one and do therefore report the bill back with the recommendation that the words "four thousand," in line 6, be stricken out, and the words "nine hundred and forty" be inserted in their stead, and as so amended that the bill do pass.

[Court of Claims. Congressional case No. 295. William H. Quinn vs. The United States.]

FINDINGS OF FACT.

At a Court of Claims held in the city of Washington on the 19th day of December, A. D. 1887, the court filed the following findings of fact, to wit:

The claim in the above-entitled case was transmitted to the court by the Committee on Claims of the House of Representatives on the 10th day of February, 1885.

James H. Embry, esq., appeared for claimant, and the Attorney-General, by F. P. Dewees, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on its merits on the 6th day of December, 1887, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

The claimant was appointed a drawkeeper at the Anacostia or Navy-Yard Bridge over the Eastern Branch of the Potomac in October, 1869, and continued in said capacity until May, 1878, and received compensation as drawkeeper at the rate of $720 per annum. He was without an assistant until July 1, 1874.

The following letter defined his duties at the time of his appointment:

OFFICE OF PUBLIC BUILDINGS, GROUNDS, AND WORKS,
Washington, D. C., October, 1869.

SIR: You are hereby directed to take charge of the Navy-Yard Bridge. It will be your duty to keep the floor of the same in good conditon, free from breaks and holes, to keep it at all times *clean*, and for this purpose it will be swept *at least* once a day, to prevent fast driving over the bridge, to prevent all accidents or damage, as far as

is possible, and in general to keep a strict watch over it at all times, and for this purpose you had better live somewhere in the immediate vicinity of the bridge.

Very respectfully,

TIMOTHY LUBERRY,
Superintendent in charge of Bridges.

Mr. WM. C. QUINN,
Bridge-keeper.

II.

While so employed, in pursuance of instructions, he exercised constant supervision over the Anacostia Bridge, and also over Bennings Bridge, 2 miles above, and in the discharge of these duties he made all estimates for the constant repairs of both bridges, purchased and inspected all material, employed all mechanics and laborers and kept their time, supervised their work, and witnessed their payment.

III.

When the new Anacostia Bridge was built under contract, in 1874 and 1875, the claimant represented the Government as inspector in seeing that all the requirements of the contract were complied with, both in the materials used and in the construction of the bridge, from the driving of the piles to the completion thereof. His time was fully occupied, and in many instances he was required to be on duty at night when the work was going on. For all of the services enumerated on the two bridges he has never received compensation beyond his salary as drawkeeper.

IV.

The condition of the two bridges, during claimant's term as drawkeeper, was such that his time was largely occupied in the work of supervision and inspection and in the purchase of materials and employment of mechanics and laborers. The draw at the Navy-yard Bridge required only occasional service, and Bennings was not a drawbridge.

V.

The services of claimant were necessary and useful, and if he had not been so employed, some other superintendent and inspector would have been indispensable to the proper care and necessary repairs of the two bridges.

VI.

In 1870 his additional service did not begin till December. For the years 1871, 1872, and 1873, the additional service was reasonably worth $100 per year, at the same time taking into consideration the fact that he was in the Government employment and not fully occupied. For the years 1874 and 1875, when the new Anacostia Bridge was building, and the claimant acted as inspector both as to work and materials, and superintended the driving of the piles, being frequently on duty at night, the additional service was reasonably worth $200 a year. For the years 1876 and 1877, and until May, 1878, the additional service in supervising both bridges was reasonably worth $100 a year, amounting in all to $940.

VII.

The claimant applied to Gen. Babcock, while he was Commissioner of Public Buildings, for additional compensation, and was informed that it would be approved by him, but would require the action of Congress. He subsequently applied to the present Commissioner of Public Buildings (Col. Casey), who decided, with the approval of the War Department, that the claim was barred by provision of the Revised Statutes, section 1765.

BY THE COURT.

Filed December 19, 1887.
A true copy.
Test, this 25th day of January, A. D. 1888.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

O

W. W. ROLLINS.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2821.]

The Committee on Claims, to whom was referred the bill (H. R. 2821) for the relief of W. W. Rollins, having carefully considered the same report the same back, with the recommendation that the bill do pass.

The accompaning papers are annexed and made a part of this report.

Petition for relief from liability of the value of internal-revenue tobacco stamps destroyed by fire in Winston, N. C., November 13, 1892.

To the Senate and House of Representatives of the United States of America:

Your petitioner would respectfully state that on the night of November 13, A. D. 1892, there was a fire in the city of Winston, N. C., where a branch or stamp office of the fifth collection district of North Carolina is located, and that the block of buildings in which a room was used for the said stamp office was destroyed by fire; that the fire completely destroyed, so as to be unable to identify and count, internal-revenue tobacco stamps of the following denominations, viz:

	Pounds.
2-ounce tobacco stamps (1772)	221½
5-pound tobacco stamps	23
10-pound tobacco stamps	99
20-pound tobacco stamps	23,196
30-pound tobacco stamps	2,337
40-pound tobacco stamps	81
50-pound tobacco stamps	195
Total number of pounds	26,152½
Total value, at 6 cents per pound	$1,569.15

Your petitioner now asks that he, as collector of the said fifth district of North Carolina, be relieved from the liability of the value of the stamps before described which were destroyed by fire, which amounts to $1,569.15.

Your petitioner would respectfully state that all care was used that could have been under the circumstances to save the stamps from being destroyed; that the First National Bank, of Winston, N. C., furnished the quarters for the office which were examined by Revenue Agent Brooks, and recommended by him as suitable for the office prior to the removal of the office to that place; that the bank also furnished vault for the storage of stamps and a safe for the use in the said office; that all the stamps destroyed, except two books of 20-pound, were cut books which were being used the day prior to the fire, and stub books of coupons from which the stamps had been detached; that W. J. Ellis, deputy collector in charge of the said

branch office, had these 2-ounce stamps, the books of 20-pound, the cut books, and stub books of coupons, issuing and verifying late on Saturday evening, November 12, 1892, prior to the fire on Sunday night, November 13, 1892, and that when he finished for the day the bank had closed so that it was impossible to get these stamps in the bank vault, and that he did not have room to get them in the safe which he had in the office.

Your petitioner would state, furthermore, that as soon as the fire was reported to him that he telegraphed the honorable Commissioner of Internal Revenue to send a special agent to investigate and ascertain the actual loss by fire, and that Revenue Agents Bowers and Swift went to the office and made an examination and count of the stamps and reported, which reports can be found on file in the office of the Commissioner of Internal Revenue in Washington, D. C.; that after the said reports were received that he received instructions to forward all the damaged stamps to the honorable Commissioner of Internal Revenue for identification and count; that after the identification and count of the damaged stamps returned to the honorable Commissioner of Internal Revenue it was ascertained that the actual loss was as hereinbefore stated, as the reports on file in the office of the Commissioner of Internal Revenue will show: Therefore your petitioner would respectfully ask relief from the liability for the said stamps destroyed by fire, as it was no carelessness or negligence on his part.

Respectfully submitted.

W. W. ROLLINS,
Collector, Fifth District, North Carolina.

[Internal-Revenue Service, fifth district of North Carolina, Winston, Forsyth County, N. C.]

William J. Ellis, being duly sworn, deposes and says that he is a deputy collector of internal revenue in the fifth district of North Carolina, and as such deputy collector is in charge of the stamp office at Winston, North Carolina, and was so in charge on the 14th day of November, 1892; that at the hour of 1 o'clock a. m. on the morning of said November the 14th, 1892, a fire broke out in an adjoining building to the block in which the office of said stamp office was situated, which said fire was communicated to said building in which said stamp office was contained. That said stamp office was on the third floor of said building, and the partition wall, separating the stamp office and the building in which the said fire originated, was destroyed. Also, the entire roof of said building and the entire inside woodwork of said stamp office, excepting the floor. That in said office there was a considerable amount of stamps, most of which was saved by the exertions of said affiant at the time of the fire, but after a careful count he finds that the following number of stamps and denomination thereof were *entirely* destroyed by fire:

1,772 2-oz. tobacco stamps	221¼	lbs.
Of 5-lb. " "	23	"
" 10 " " "	99	"
" 20 " " "	23,196	"
" 30 " " "	2,337	"
" 40 " " "	81	"
" 50 " " "	195	"
Total pounds	26,152¼	lbs.
	6	
" value	$1,569.15	

That the safe which had been provided for the safe-keeping of stamps from accidents of this character was filled at the time of the fire, and that the stamps which were destroyed were those which were placed in a locked closet in said office. That said fire originated without any fault on the part of this affiant, and that everything was done by him to protect and save the property of the Government which he had under his charge: Wherefore, he prays that credit may be given to him to the amount of the value of said stamps destroyed by fire as hereinbefore stated.

WILLIAM J. ELLIS,
Deputy Collector.

Sworn and subscribed before me Jan'y 23rd, 1893.

H. L. BECKERDITE,
U. S. Commissioner, Western District, N. C.

WINSTON, N. C., *January 25, 1893.*

SIR: I am acquainted with Mr. W. J. Ellis, stamp collector in Forsyth County, and having charge of the sale of stamps at this place, and have read his affidavit filed for the purpose of asking relief from loss occasioned by loss of stamps belonging to his office by fire. I know the facts stated by him as to his exertions to save the property of the Government under his charge are true, as I was present at the fire, and having an office in the same building and being president of the First National Bank, which does business in the same house. Mr. Ellis is a gentleman of character, and his statements may be relied upon. Everything was done by him which could have been done by anyone to save and protect the property of the Government at the time of the fire.

Very respectfully,

J. C. BUXTON,
President First National Bank.

The COMMISSIONER OF INTERNAL REVENUE.

WINSTON, N. C., *January 25, 1893.*

SIR: The undersigned, cashier of the First National Bank of Winston, N. C., begs to be allowed to add his personal testimony to the facts set out in the affidavit of Mr. W. J. Ellis, deputy collector of internal revenue in the fifth district of North Carolina, praying to be relieved of a loss of $1,569.15, caused by the destruction of his office by fire on the night of the 14th of November, 1892.

The undersigned was personally present at the time of the fire and witnessed the efforts made by Mr. Ellis, by himself, and others to save the office and building, but was overpowered by the flames after most vigorous efforts. The undersigned further states that he is well acquainted with the character and standing of Mr. Ellis, deputy collector, and can testify that he is a gentleman of irreproachable moral character; one whose honesty and integrity no one knowing him would doubt for a moment.

Very respectfully,

J. W. ALSPAUGH,
Cashier.

The COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

WINSTON, N. C., *January 26, 1893.*

DEAR SIR: I have read the affidavit of Mr. W. J. Ellis, stamp collector at this point, and beg to say that the statements made by him are correct in every particular. Mr. Ellis is well known to me and I would not hesitate to indorse his statements. He is a gentleman of the highest integrity, and any statement made by him would be altogether truthful and reliable.

Very respectfully,

T. A. WILSON,
Cashier People's Bank.

The COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

WINSTON, N. C., *January 25, 1893.*

SIR: I have just read the petition for relief, written by Mr. W. J. Ellis, of this city, and in connection therewith desire to make the following statements:

(1) I have known Mr. Ellis for several years, and he is a gentleman of the highest standing. Any statement he makes may be thoroughly relied upon.

(2) I was present at the disastrous fire which destroyed the revenue office here, and know personally that Mr. Ellis and his friends made every possible effort to save the property of the Government.

(3) I can vouch for most of the statements made by Mr. Ellis in his petitions, and trust that he can be relieved in the manner set forth.

Very respectfully,

W. A. BLAIR,
President People's National Bank.

The COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

WINSTON, N. C., *January 25, 1893.*

DEAR SIR: I have read carefully the statement or affidavit filed before you by W. J. Ellis, deputy collector at this point, in regard to loss of stamps at the fire of November 14, 1892, and in regard to same have no hesitancy in stating that the same may be relied upon as absolutely true. I know Mr. Ellis well and know him to be a gentleman of high character, whose word is unquestionable. The stamp office was located in the same building that I have my private office, and while I was not present during the fire, early next morning I was in the burnt building and observed the condition of the stamp office.

Very respectfully,

R. B. KERNER,
Mayor of Winston, N. C.

The COMMISSIONER OF INTERNAL REVENUE OF THE UNITED STATES.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 66.

JAMES J. HAYNES.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2689.]

The Committee on Claims, to whom was referred the bill (H. R. 2689) authorizing the Treasury of the United States to refund certain duties paid by James J. Haynes, respectfully report:

This bill was referred to the House Committee on Claims in the Fiftieth and Fifty-first Congresses, and by both committees reported favorably.

James J. Haynes, the claimant, imported into the United States from Mexico at the port of Laredo, between July 14, 1883, and February 24, 1884, a commodity called istle, upon which he was charged and paid certain customs duties. It afterward appeared that said customs duties were erroneously exacted of him and that the istle imported was a nondutiable article; all of which appears from the letter of the Secretary hereto attached.

Your committee recommend that the bill do pass.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 2, 1888.

SIR: The Department is in receipt of your letter of the 28th ultimo, in which you request to be informed as to whether there has been a ruling of the Secretary of the Treasury that istle was a nondutiable article, and in reply you are informed that under date of the 11th of April, 1884, it was held by Judge Folger, late Secretary of the Treasury, that the "dried fiber of a species of American aloe or century plant, which is procured by reducing the leaves to a pulp and then drawing out the fiber," and which was commercially known as istle, was entitled to free entry under the provision of the free list for "dried fibers * * * which are not edible * * * and not advanced in value or condition by refining or grinding, or by other process of manufacture." A copy of such decision is herewith inclosed.

I would also state with reference to the bill inclosed with your letter, viz, H. R. 2966, entitled "A bill authorizing the Secretary of the Treasury of the United States to refund certain duties paid by James J. Haynes," on importations of istle from Mexico into the United States, in the port of Laredo, that the istle imported by the said Haynes was, at the time of its importation, decided by the collector of customs to be liable to duty, and that duty was duly assessed and collected thereon.

I would further state that the reason why duties so assessed on the said merchandise, and paid by Mr. Haynes, were not refunded, is that the importer failed to comply with the requirements of the statute (section 2931 of the Revised Statutes) as to protesting, appealing, and instituting suit, which, under the express requirements of said statute, rendered the decision of the collector of customs as to such assessment final and conclusive.

Respectfully Yours,

I. H. MAYNARD,
Assistant Secretary.

Hon. S. W. T. LANHAM,
U. S. House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 67.

A UNIFORM SYSTEM OF BANKRUPTCY.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 139.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 139) to establish a uniform system of bankruptcy, recommend that the same be passed.

A minority of the committee is opposed to the bill as reported, particularly to the involuntary grounds of bankruptcy, but a decided majority agree to the bill as reported. Your committee adopt the annexed report of the committee in the Fifty-second Congress:

House Report No. 1674, Fifty-second Congress, first session.

CONTENTS.

Pages.
1 Provisions of the Federal Constitution.
1 Bankruptcy legislation by Congress.
2 State insolvency laws.
2 Discharge of honest insolvents and the equitable distribution of bankrupt estates.
4 Scope of a bankrupt law.
5 Rights of debtors and creditors under the present insolvency State laws and under the proposed bankruptcy law.
7 Effect of the passage of a bankruptcy law upon the price of goods and interest on money.
8 Voluntary and involuntary bankruptcy.
9 Who are in favor of and opposed to bankruptcy legislation.
11 H. R. 459.
11 H. R. 616.
11 H. R. 2600.
11 H. R. 9348.
Chapters:
11 I. Bankrupts.
12 II. Courts.
13 III. Officers.
14 IV. Creditors.
14 V. Estates.
16 Recommendation.
17 Appendix.

The Committee on the Judiciary, to whom was referred the bills H. R. 459, 616, and 2600 providing for a uniform system of bankruptcy, have had the same under consideration and beg to report as follows:

PROVISIONS OF THE FEDERAL CONSTITUTION.

The very general demand which has been for some years, and is now being, made upon Congress to pass a uniform bankruptcy law, calls attention to the following singular condition of affairs. At the time of the framing of the Constitution for the establishment of the Government the need of a bankruptcy law was foreseen. Accordingly a provision was inserted in that instrument reserving to Congress the power to pass one. A provision was also inserted by which the States were forbidden to impair the obligation of contracts. The result was that such a law could only be passed by Congress.

And yet there has not been a bankruptcy law on the statute books for some 14 years.

BANKRUPTCY LEGISLATION BY CONGRESS.

In 1800 a bankruptcy law was passed, which was repealed in 1803. During 1841 Congress again acted. That law became the subject of political contention and was repealed to take effect March 3, 1843. At the close of the late war the agitation was renewed and a measure was passed in 1867, as a relief act to those who had been financially wrecked. It was a crude one-sided law in the beginning, and partook of the imperfections of the legislation of those days. It was subsequently amended so that it became burdensome to the people whom it was intended to benefit, and, as a result, it was repealed eleven years afterward, in 1878.

It is contended by many very conservative people, and possibly by the opponents of bankruptcy legislation, that because the former laws were in turn repealed a good one can not now be drafted. To admit this proposition would be to deny the possibility of intellectual progress; to ignore the spirit of the age in which we live; and to forget that the errors of the past in matters of legislation upon this subject constitute the greatest safeguards that we have in drafting a new law. The first Congress which legislated upon this subject was without precedent or experience, but from our present standpoint there is a beacon light upon every error in legislation upon this subject both by Congress and the States.

We therefore reach the conclusion, without difficulty, that with the knowledge of the necessities of the times and with a comprehension of the experience of the past, it is possible to draft a bill which shall be comprehensive of the rights of the people upon the subject. It is not only possible to do this, but it has been accomplished, and a bill is herewith reported to the House with a recommendation that it be passed.

STATE INSOLVENCY LAWS.

If the condition of interstate traffic had been such as to demand a bankruptcy law, if the First Congress had legislated wisely upon the subject, and if proper amendments had been made to such a law from time to time as occasion required, there would never have been any State insolvency laws, but as there was in the beginning little, if any, demand for such a law, as the efforts of Congress seem to have been unsuccessful, and as at least one of the measures became a subject of political contention, the laws were repealed.

Most of the States, in the absence of a National bankruptcy law, have legislated in response to the needs of their respective citizens so far as their powers upon the subject extended; but those powers under the Federal Constitution are incomplete; and many of these laws have proved to be rather a protection to rogues than a benefit to honest people. The passage of these laws by the several State legislatures constitutes conclusive proof of the necessity for a bankruptcy law, and calls attention to the fact that Congress has for a series of years neglected to exercise one of its constitutional powers.

The substitution of one law for the many State laws will reduce the aggregate expenses of bankruptcy administrations and will be promotive of the interests of the many who are to-day in opulent circumstances and to-morrow unfortunate but hopeful paupers, or to-day debtors and to-morrow creditors of untold wealth.

It seems, therefore, that there can not reasonably be any diversity of opinion upon the proposition that the numerous State insolvency laws should be superseded by a single one embodying the wisdom of all of them and adequately protecting the property rights of all citizens.

DISCHARGE OF HONEST INSOLVENTS AND THE EQUITABLE DISTRIBUTION OF BANKRUPT ESTATES.

Shakespeare gave to literature a play which has served for generations to hold up to the scorn of mankind the creditor who contended for his pound of flesh. The world has had the benefit of ages of humanizing influences since the time when the ships of Antonio failed to return from sea; and yet we have with us hopeful, enterprising, honest

men, quite as ready to promise impossible things, and fully as unfortunate as the Venetian; we have also creditors who, although perhaps more politic than Shylock, are quite as heartless and exacting.

Bonds with penalties of human flesh ought not to be made; if made, they ought not to be enforced. Bonds, as well as other forms of contracts, represent transactions by mutual consent on the part of all of the individuals who enter into them; if they are too lenient or too exacting or if they contemplate the impossible, both parties must share in the consequences. If the subject-matter of a contract is immoral, or its performance would be against public policy, it will not be enforced. If one of the parties to it should be in default, and should have less property than is allowed as an exemption to a poor man, it could not be enforced because such exemption is granted on grounds of public policy. And, if he was honest and had applied all of his property above his exemptions to the payment of his debts, it ought not to be enforced for the balance unpaid, because public policy is interested in having every citizen free to support those dependent on him in order to keep them from becoming public charges, and to educate his children and accumulate property subject to taxation.

When misfortune comes without wrong on the part of the individual, we think, as did Portia when pleading for the cancellation of the pound-of-flesh bond, that:

> The quality of mercy is not strain'd;
> It droppeth, as the gentle rain from heaven
> Upon the place beneath: it is twice bless'd;
> It blesseth him that gives, and him that takes.

In the remote ages, of which we have but imperfect accounts, it seems that the unfortunate debtor might be put to death by his creditors; or there was a debtor's prison and all the misery that it entailed, without a single remedy in the form of an opportunity to earn money with which to pay the debt; then came liberty of action, but without protection from processes for unpaid debts; later on exemptions were provided to protect the existence of a modest fireside. Honest unfortunates, upon the ground of public policy, and appealing to the great sympathetic heart of the people, now seek a release from the slavery of debts which they can never hope to be able to pay; and their creditors, weary of warring, ask for equality as between themselves before the courts of justice.

The right of discharge is enjoyed by honest debtors living under every civilized flag except our own, and although our Constitution made provision over a hundred years ago for the enjoyment of that right by our citizens, it has been withheld from them for nearly fourteen years because of the inaction of Congress.

In other countries, the debtor is protected by law against the selfish avarice of an individual creditor, as is also the creditor against the dishonest debtor and the reckless avarice of other creditors; the law thus preventing commercial death, so far as its prevention is possible; but when this occurs, there is an orderly distribution of the estate among those to whom it belongs in proportion to their claims, and an honorable discharge is granted to the debtor in the event of his trouble having been the result of honest misfortune.

Misfortunes and disappointments seem inevitable to a large part of the human race. Doing wrong, failure of enterprise, and financial crises seem to be almost as much a part of life as are diseases and *physical death.* It is as much our duty, so far as we can by legislative

foresight, to prevent wrongdoing, the failure of enterprises, and the coming of financial crises as it is to prevent disease and consequent death. In the event of either commercial or physical death the property interests involved should be settled as justice may require. To fail in making provision for these inevitable conditions would, as it seems to us, be moral negligence.

This Congress ought, therefore, in our judgment, to pass a law for the rehabilitation of honest insolvent debtors, so that they may without restraint enjoy the constitutional guaranties of life, liberty, and the pursuit of happiness; for the prevention of fraud; for determining in what cases a debtor should be declared a bankrupt because of dishonesty or insolvency; for the prompt and economical distribution of bankrupt estates among those to whom they equitably belong; and for the freedom and enlargement of commerce.

SCOPE OF A BANKRUPT LAW.

Statistics which have been compiled by the Treasury Department from the annual sheets of the mercantile agencies, covering a period of thirteen years past, disclose the fact that, for the whole country, less than two out of every hundred of those engaged in business fail each year. This law will therefore be confined in its operations to the administration of the estates of less than 2 per cent of the people who take part in conducting transactions on credit; and it will have no concern with the affairs of the other ninety-eight and over in each one hundred, except in so far as they may have business with bankrupt estates or may be deterred from the commission of wrongs in contemplation of bankruptcy, which are forbidden by the act. In other words it will not constitute in any sense the rule for the government of legitimate transactions between honest solvent people, but will bear the same relation to estates in liquidation because of dishonesty or insolvency that the probate laws bear to those of deceased persons.

A bankruptcy law should be limited to the determination of the question as to whether the property of an individual, firm, or corporation in debt, should or should not be administered for the benefit of the creditors, because of fraudulent acts or because of insolvency; as to the distribution of the estate among those to whom it rightfully belongs; as to the discharge of the bankrupt; and as to the punishment of those who have done wrong in contemplation of bankruptcy.

The authors of previous legislation upon this subject do not seem to have fully comprehended the proper limits of such an act under our Constitution. They seem rather to have taken as a model the laws of those nations where there is but one legislative body and but one system of courts. They also seem to have been forgetful of the fact that in such countries the scope of the law is immaterial; while in this country any legislation by Congress beyond certain limits would be an infringement of the rights of the States. Any infringement of the established rights of citizens in the several States would eventually result in the repeal of such a law.

The bill in question was framed within the limits indicated above, with a view of having the ultimate result of controversies between given litigants identical, irrespective of the fact of any one or all of them becoming bankrupt pending the litigation.

It will apply to the affairs of less than 2 per cent per annum of the people who are engaged in business.

RIGHTS OF DEBTORS AND CREDITORS UNDER THE PRESENT INSOLVENCY STATE LAWS AND UNDER THE PROPOSED BANKRUPTCY LAW.

A debtor can not, under the present insolvency laws of most of the States, secure an extension of time or a settlement except by the voluntary clemency of every one of his creditors: under the proposed bankruptcy law he may, with the concurrence of a majority of his creditors, secure more time to pay his debts or effect a compromise by which the amounts owed will be reduced.

A creditor who wishes to secure a settlement for a debtor, under the laws of most of the States, may be practically coerced into purchasing the claims of other creditors who have it in their power to prevent a settlement, and in that way secure a price for their consent: pursuant to the provisions of the bill now recommended creditors of the same class will enjoy equal rights and can not therefore impose upon each other.

A debtor can not legally secure even a limited discharge under many of such State laws; he can not under the laws of any of them secure a discharge from a nonresident creditor: under the measure in question he may, if an honest man, secure a discharge not as a matter of clemency but as a right under the provisions of the Federal Constitution.

A creditor who donates or sells a release to a debtor, by the laws of most of the States, knows that some other creditor may have joined therein on more advantageous terms, participated in fraudulent misrepresentations, or become the subject of favoritism: under the proposed law every creditor will receive only what in equity belongs to him and will be bound by the decree of the court confirming the settlement.

A debtor's property, under the present laws of most of the States, may be attached while he is temporarily embarrassed and the debtor broken up in business, although amply able, if given a little time, to pay his creditors and have a surplus left: if the law advocated by the committee be passed, attachments will not be availing solely to the creditors causing them to be levied, provided the defendant is adjudged a bankrupt under a petition filed within four months after the levy of the attachment.

A creditor under many of the present State insolvency laws is frequently compelled, through fear that some other creditor will take advantage of a common debtor, to make an affidavit as to facts he does not know to be true, and to give a bond in order to secure a ruinous attachment against an honest debtor: owing to the provisions of this bill he can deliberately inquire into the affairs of his debtor, and, if necessary, render him assistance in the form of an extension of time, of the scaling of the debt, or of the loan of money, with the assurance that his generosity will be appreciated by the debtor and that he will be protected by the court.

A debtor can not, as a practical proposition, have a meeting of his creditors under the present insolvency laws of many of the States; because, if a notice calling such a meeting were sent out, there would be a scramble among the creditors to secure their claims by attachments, garnishments, and replevins: by the terms of the proposed law, he may have a meeting of his creditors whenever and as often as he likes, since they can not get an advantage over him or over each other upon learning that he needs their assistance.

A creditor can not secure the confidence of his embarrassed debtor under the present insolvency enactments of most of the States, because *the debtor knows* that the creditor would be compelled in his own self-

ish interest to take advantage of him and the other creditors: if the proposed law be enacted the creditor can always have the confidence of his debtors and be thereby enabled to assist them in avoiding trouble and to help them if it comes, with advice and with money, if occasion requires.

A debtor, by the terms of many of the present State laws, may be induced to give, or coerced into giving preferences, and thereby bring on his financial ruin without actual necessity, with the result of favoring a few creditors and being compelled to continue to owe the others: the proposed act forbids the giving and receiving of preferences, and, as a result, the creditors will receive their equitable share of the estate, and the debtor, if honest, will be discharged.

A creditor, in view of the provisions of many of the present insolvency laws, suffers a nightmare of apprehension lest his debtors should, in anticipation of real or imaginary dangers, dispose of their estates to his financial detriment: under the measure submitted for passage he will be without fear, as he knows that, whatever misfortune may befall his debtors he will receive his share of their estates over and above their exemptions.

A debtor frequently commits moral, and occasionally legal, wrongs with regard to his property in the protection of his dependents under present laws: he will not have occasion to do so after the passage of the proposed law, as it will permit him to retain the exemptions allowed by the laws of his State, grant him a discharge if he is honest, and thereby enable him to honorably perform his duties to his dependents.

A creditor, at present, when selling goods or loaning money, must take the chances of his debtor giving secret liens and conspiring with others to defraud him: under the bill, now favorably reported, such secret liens can not be enforced and such frauds may be prevented; he will, therefore, be liberal in extending credit and thereby greatly benefit his debtors.

A debtor may now, almost without restraint, engage in reckless speculation, buy goods not intending to pay for them, and make away with his assets with but small risk of punishment: under the proposed act such conduct, if the creditors protect their interests, will result in a liquidation of his estate, the refusal of a discharge, and in his punishment; the effect will be a diminution of illegitimate transactions and the promotion of conservative methods in the affairs of commerce.

A creditor, under the present laws of many of the States, is without remedy as against his fraudulent debtor: by the provisions of the proposed law an adjudication may be secured; the entire property and all property rights will thereupon vest in the trustee, who will be entitled to use all processes known to the State and Federal courts for securing the property and enforcing the property rights for the benefit of all of the creditors.

A debtor, in view of the present laws, can not now secure reasonable financial concessions from his creditors, because they prefer to obtain judgments against him, and hold them over him: after the proposed law is enacted he can obtain such concessions as he may be equitably entitled to, because his creditors will know that, unless they are granted, he can go into a bankruptcy court and enforce them.

A creditor knows that less than 2 per cent of the people engaged in conducting the credit transactions of the country fail annually, and realizes that all of such debtors may now defraud him of every cent of his claim, and that such a result would cripple him financially; if the

bill in question becomes a law such claims would all be collectible in part, and hence it would be impossible for him to be seriously crippled by the failure of that percentage of his debtors.

Debtors and creditors both know that the present laws are neither uniform nor complete; that concert of action between them is impossible; that, through ungrounded fears and misapprehensions, large amounts are unnecessarily spent and valuable good wills dissipated: they know, too, that the passage of this bill would be the substitution of one good law for many poor ones, and under it intercourse would be cordial and action always in harmony with mutual interests; the expenses trivial; and the results consonant with the rights of all parties.

The poor and the rich both know that under present insolvency enactments fraud, chicanery, and deceit are daily practiced in the administration of the estates of unfortunates: they also know that the bankruptcy bill is the embodiment of an earnest desire to enforce the rule that "honesty is the best policy" and hence the great masses of them are in favor of its enactment.

EFFECT OF THE PASSAGE OF A BANKRUPTCY LAW UPON THE PRICE OF GOODS AND INTEREST ON MONEY.

The people living where there are practically no laws have but a limited credit, and, as a result, must buy such goods as they purchase on credit at a high price; this high price is primarily to the detriment of consumers; as it is, they have to pay the profits which are added by the manufacturer, the wholesaler, and the retailer, who in turn handle the goods; and because of the risks incident to trying to make collections under bad laws, each one adds a percentage to reimburse him for his losses. They may, of course, be fortunate enough to avoid the total losses expected, and in that event have the percentage collected as added profits. The honest consumer, it will be noted, pays—always pays—and hence has a direct monied interest in a law which is designed to prevent wrongdoing and to reduce the hazards of business.

The same statement of facts applies to the lending and borrowing of money. If the laws secure him the creditor is willing to loan his money without or upon slight security; whereas if they do not protect him and the collection of the sum due under the law is not certain, he will be loath to loan his money and will exact a high rate of interest to make up for the losses suffered through the dishonest; the more imperfect the laws, the higher will be the rate of interest exacted.

With regard to the purchase of goods on credit and the borrowing of money at interest, the truth is that honest people who pay their debts pay, in effect, the debts of rogues, in the form of multiplied profits upon what they buy and increased interest on the sums they borrow.

It follows that those who buy or borrow will be benefited if the laws are so framed as to prevent roguery and swindling of all sorts. The passage of this law will therefore redound to the direct financial benefit of honest people in every station in life; and the greater the distance they are from the commercial centers, the more imperfect the laws under which they now live, and the poorer they are, the more will they be benefited.

It will not do to say that such a law should not be enacted because it contains provisions under which creditors may call upon their debtors for an accounting; all the States have enacted laws for the collection of debts, and in those States where such laws are effective it will be found that goods can be bought on a small margin of profit and that money can be borrowed at a low rate of interest.

If there were no credit there would be no creditors and no debtors. It is therefore of the greatest importance that a fair law should be enacted, as it will promote and extend credit.

Speaking in a general sense, the whole country has been developed, and its commerce is being conducted, on credit. A small part of the business transactions of the country are made on a cash basis, but the great bulk of them are on time. The statistics show, we believe, that over 90 per cent of the business of the whole country is done on credit and that less than 10 per cent only is done on a cash basis.

The demand for a law which will make credit secure to the giver and to the receiver is not a local one. It comes from every part of the country, because the credit system is the rule and business for cash the exception. It will be to the advantage of the citizens of every State to have credit strengthened.

Those who grant credit and those who receive it know that in case of financial difficulties happening to the debtor, he needs the help of his creditors on the basis of their mutual interests, irrespective of whether the estate is to be wound up or he is to be tided over the difficulty in which he is involved, with a view to his continuance in business. Concert of action between the debtor and all of his creditors is impossible under the laws as they now stand; but such action could be enforced under the proposed law. If an administration is determined on, it would be upon the basis of exact justice to the creditors, and if the debtor is honest he would be discharged. If the debtor wished to compromise and the creditors were willing, a compromise could be readily agreed upon to their mutual advantage.

It is, therefore, apparent that the passage of a bankruptcy law by Congress will do away with suspicions and beget confidence between creditors and debtors and result in the reduction of the price of goods and of interest on money.

VOLUNTARY AND INVOLUNTARY BANKRUPTCY.

There have always been in connection with the discussions of the bankruptcy question many advocates of the complete system, embracing both the voluntary and involuntary features, and a few advocates of a purely voluntary system. But no purely voluntary bill has ever successfully stood criticism in this or in any other country, so far as we know.

The evident purpose of the advocates of the partial or purely voluntary system is, as we think, to give to the debtor advantages without at the same time giving to the creditor any corresponding ones. Such a law would not benefit the debtor, for whose express advantage it would be ostensibly passed; but, on the contrary, would have a tendency to curtail credits and drive many solvent concerns into liquidation.

The words debtor and creditor may be misleading. Very few people are purely the one or the other; if they are, they may at any time pass from the one class to the other or become members of both. In the ordinary acceptance of the terms a debtor is considered a poor person, and yet probably the largest class of creditors in the country is made up of those who have wages due to them. A creditor is commonly thought of as a person of large property interests, and yet the largest class of debtors in the country consists of the railroads; they owe six times the amount of the national debt. The next largest class of debtors is the banks.

It is therefore apparent that those who are pursuing the mistaken

course of advocating a voluntary bill for the benefit of the poor people do not know who the debtors of the country really are.

The honest person can of course be relied on at all times to act equitably with reference to his creditors, if he be a debtor, and with reference to his own debtor and his associate creditors, if he be a creditor, unless the laws are such as to permit or compel him, in the interests of his dependents or friends, to act differently. Beyond question his interests would always be advanced, and incidentally the interests of the community in which he lives, by following the equitable rule; such a person will therefore be strengthened in his position by the passage of a law which is but the embodiment of his conduct in business affairs.

If the laws are lax, uncertain, and in their nature permissive of wrongdoing, honest men will sometimes be compelled against their own wishes to do wrong. Such laws always enable the wrongdoers to thrive, to the detriment of their fellow men. Such laws, therefore, do irreparable injury to honest debtors and honest creditors.

We do not believe that it would be right for a large employer of labor to be able to deliberately make away with his property without there being a remedy on the part of his employés to institute a suit in bankruptcy and secure an equitable distribution of his estate. The same principle holds good as against any debtor and in behalf of all bona fide creditors.

It does not seem right for a middleman to purchase and sell goods and to have remedies against the person from whom he purchases them without having at the same time corresponding remedies against the person to whom he sold them. There is a homely but true saying that "it is a poor rule which does not work both ways." It applies exactly to this subject.

The people do not demand a partial law. Among all of the petitions, memorials, addresses, and resolutions which have been filed in Congress upon this subject there is not one, so far as we are informed, on behalf of debtors asking for a purely voluntary law, or one on behalf of creditors asking for a purely involuntary law, but, on the contrary, they either advocated or opposed the law as a whole.

A law that would permit a dishonest debtor to deliberately prepare for, and then go into, bankruptcy without the possibility of interference on the part of his creditors, would be, in our judgment, in a very great degree destructive of the true interests of the great bulk of the men who conduct transactions on credit, both as debtors and creditors.

Every transaction on credit creates a debtor and a creditor; the debt of the one and the claim of the other are exactly equal. It follows that the total amount of all debts exactly equals the total amount of all claims. Debtors and creditors each voluntarily joined their class and ought therefore to be in the enjoyment of exactly equal rights.

We do not believe that it would be good morality, politics, or statesmanship to pass a one-sided law, *i. e.*, a purely voluntary measure.

It must be conceded therefore, as it seems to the committee, that the law would not protect the rights of those interested if it did not provide for both voluntary and involuntary bankruptcy.

WHO ARE IN FAVOR OF AND OPPOSED TO BANKRUPTCY LEGISLATION.

It does not seem likely that the enactment of an equitable bankruptcy law would be opposed by an honest debtor, as it is but the realization *of what his conduct* would be if misfortune were to overtake him, *i. e.*,

he would be willing to make a complete surrender of his property and submit to the tests designed to justify the extension to him as an honest man of a discharge. He would realize that these tests were absolutely necessary in order to prevent the granting of discharges to those who have proven dishonest.

It does not seem probable that the enactment of such a law would be opposed by the honest creditor who conducts his business according to the "Golden Rule," as he believes that legitimate business consists in selling goods at a reasonable profit, and not in taking advantage of the debtor or of associate creditors.

It does not seem probable that the enactment of such a law would be opposed by the great masses of the people who believe in the exercise of absolutely equal rights and amenability to the law with equal responsibilities, and who, therefore, wish the laws to deal exact justice, not only to all classes, but to every citizen in his individual capacity.

It can not be said that we will not give to the Federal courts jurisdiction in bankruptcy, because that jurisdiction was given by the Federal Constitution. To say that we will not pass such a law because about one per cent of the men in business per annum would have their affairs administered in those tribunals, would be to say that we will not enable our honest unfortunates to exercise their constitutional right of securing a discharge, and that we will not permit bankruptcy estates to be administered in the most prompt and economical manner.

The opponents of the proposed legislation say a wise bankruptcy law is impossible because the old ones were imperfect. We know their imperfections. We know of many abuses which were practiced in their administration. We know that each of those laws was enacted after a great calamity in response to the demand of and for the relief of suffering debtors, and that having served the special purpose for which they were enacted, they were of course repealed. The present demand is not from any one class, but from all classes; it is not for a wreckage law, but rather for one to serve much the same purpose to the business community that the probate laws serve to humanity in general. We know, too, that no perfect law was ever enacted. We know that the State and Territorial legislatures and Congress are busy passing amendments to laws, curing their defects and broadening their scope, to meet the ever increasing demands of human affairs. We know, too, that all of the constitutions of the older States and the Constitution of the United States have been repeatedly amended. We therefore believe that a bankruptcy law should be enacted while there is no violent and selfish demand for it, and then amended if occasion shall arise for so doing.

The opposition in its broadest sense, therefore, as it seems to us, is confined to those who think they have a selfish financial interest in such opposition, to dishonest debtors or avaricious creditors, who favor the State laws because under them no debtor can obtain as a right a complete discharge, and those who believe in the theory that debt is an obligation which must be paid in full or absolved by death.

The legislation as contemplated by the Constitution was designed for the financial protection of the creditor and for the relief of the honest debtor. There may be those who will doubt the possibility of the accomplishment of these ends, but those who would not advocate their accomplishment are certainly not in touch with the people, whose hearts beat for justice to the creditor and for liberty to the unfortunate debtor.

H. R. 459.

By its terms this bill proposes that a part of the proceedings shall take place in the State courts and part in the Federal courts. We do not think that this result can be accomplished without danger of bringing about unfortunate complications between such courts. At the best we believe that the administration of the law in two separate tribunals would prove unduly expensive, leave undiminished the opportunities for the commission of fraud, and not be satisfactory to the parties affected by it.

There seems to be reason to fear that under its provisions all debtors, the dishonest as well as the honest, would be discharged from their debts.

The fact that it provides only for voluntary bankruptcy leaves to the dishonest debtor, we think, an opportunity to deliberately prepare for bankruptcy to the detriment of his creditors, without giving them any right or opportunity to interfere and protect their interests. This possibility would impair the credit of all honest debtors and be of untold injury to them. As the latter, and not the former, are those who are entitled to the consideration of the law, we think its provisions are not sufficiently comprehensive on the subject.

H. R. 616.

This bill seems to be for the most part embodied in the substitute as reported.

H. R. 2600.

This bill was passed by the last House of Representatives by a large nonpartisan, nonsectional vote; it was favorably recommended by the Judiciary Committee in the Senate, but was not reached for consideration on the calendar; and it was therefore reintroduced at the beginning of the present session of Congress. Many of its provisions were modified for its betterment, as we think, before being reintroduced.

The order of many sections of the bill has been changed, with a view of getting sections relating to the same subject as near together as possible, irrespective of alphabetical arrangement. A number of amendments have been made. As a matter of parliamentary expediency, seventy of the seventy-one sections of the bill, in their changed order and embodying such amendments, are herewith offered as a substitute for the bill.

THE SUBSTITUTE (H. R. 9348).

The general arrangement of the substitute is in chapters on bankrupts, courts, officers, creditors, and estates, the same as in H. R. 2600.

Chapter 1 on bankrupts contains provisions among others as follows:

A section defining the meaning of words and phrases. This provision is calculated to prevent misunderstanding as to the meaning of the language of the bill and to make it shorter by thousands of words than it otherwise would be.

The section on acts of bankruptcy, that is, the statement of the grounds upon which suits in bankruptcy may be instituted, has been modified so that under the section as now framed it will be necessary to prove as one of the facts, before a person can be adjudged a bankrupt,

that he had committed fraud or become insolvent and failed to pay his obligations.

As to those who may become bankrupts, an amendment has been made by the committee, agreeable to which the benefits of voluntary bankruptcy are denied to corporations. All other persons who are indebted in any amount may file their own petition and become voluntary bankrupts.

Suits may be commenced in bankruptcy by unsecured creditors, under very careful restrictions, against anyone who owes $500 or over, except a national bank, a person engaged chiefly in farming or the tillage of the soil, or a wage-earner. National banks are excepted because there are now national laws for their supervision and liquidation, which for the most part have proven satisfactory in practice. Another reason for exempting them is that since the Government is liable for the money issued by these banks in the event of their failure, it is but reasonable that it should have the administration of their estates. Farmers and wage-earners are excepted because it is understood to be their desire that the provisions of involuntary bankruptcy should not apply to them. They may, if they desire, become voluntary bankrupts.

The members of partnerships who commit acts of bankruptcy may be adjudged bankrupts, but if any member of the partnership is not adjudged a bankrupt he will be entitled to wind up the affairs of the partnership and pay over the amount due, if any, to the bankrupt's trustee.

The act allows to bankrupts the exemptions which are prescribed by the laws of the State wherein the proceedings are had.

A composition may be promptly made by the debtor with his creditors, when it is desired by the former and a majority of the latter. A minority of the creditors will not be able to either prevent the composition as a matter of spite or enforce the payment of their claims in full by interposing obstacles to the composition. It may be made either before or after the adjudication. If fraudulently procured, it may be set aside upon application made within six months after the adjudication. It seems probable that under these provisions there will be a greater number of compositions than administrations.

The discharge can only be applied for within a limited time after the adjudication; the application will be heard without unnecessary delay, after notice to all the creditors. Speaking in general terms, the applicant will not be discharged unless his misfortune was without fraud and he has made a complete surrender of his estate. While it is not thought that the very carefully guarded provisions will prevent the discharge of honest men, it is believed that they will in every case deny such a privilege to dishonest men, where the creditors look properly after their interests. The discharge will not release the bankrupt from taxes, debts not properly scheduled (unless the creditors had notice thereof), or debts created by fraud, embezzlement or defalcation while the debtor was a public officer or acting in any fiduciary capacity. A discharge which was obtained by fraud may be set aside upon application made within two years after being granted.

Chapter 2 embraces the provisions of the bill relating to courts, their jurisdiction and procedure, and among others the following:

Litigation about the property rights incident to the administration of the estate will be had in the State courts where it would have occurred had not bankruptcy proceedings intervened. If a claimant has rights adverse to those of the estate, he may bring his proceedings not

only in the proper State court, but if he sees fit may institute proceedings in a court of bankruptcy; but it is provided that the trustee must go to the proper State court for the remedy of the estate, unless the one against whom proceedings are to be instituted consents that the case may be brought in a court of bankruptcy.

It is not thought to be feasible to have the law administered in the State courts; although it is plain and simple in its provisions, there are many matters of procedure about which the courts may possibly disagree, as they frequently do under other laws. It is therefore necessary to give a final appeal to one common tribunal, whose judgment and decrees shall be binding upon all the subordinate courts, that is, the Supreme Court of the United States.

Congress has no power to compel the State courts to administer laws passed by it; so that if they were given jurisdiction to administer this law and declined to exercise it there would be no remedy, and, as a result, the people living within the jurisdiction of such a State court might not be able to maintain rights secured to them by the Constitution and a law of Congress.

It therefore follows that, as this is a Federal law, it must be enforced in the Federal courts, as contemplated and provided by the Federal Constitution, the organic law of the Government.

The right of trial by jury has been retained inviolate.

Provisions have been made for the prompt and inexpensive compromise or arbitration of controversies as a substitute for long and expensive litigation.

Officers who embezzle, creditors who cheat, and bankrupts who defraud may be punished, if convicted by a jury, by imprisonment for a term not exceeding two years.

Chapter 3 treats of officers and their duties; among other provisions are the following:

There are only two new offices created. One is an assistant judicial office, *i. e.*, that of referee, created in order to secure prompt proceedings. The other is that of trustee; it is necessary in order to protect the interests of the creditors. Neither of these will constitute any charge on the Treasury.

The referees will be appointed by the courts of bankruptcy, under whose immediate supervision they will perform their duties, instead of by the United States circuit courts, as originally provided by the bill.

The number of referees will not be limited except by the necessities incident to the prompt dispatch of the business of the courts. The striking off of the limitation as to numbers is made possible by the amendment relating to their compensation.

It was provided by the original bill that the referee should be paid a salary by the Government, and that each estate should pay into the Treasury a small percentage from the amounts to be paid the creditors in dividends. But this plan seemed designed to subject the Federal Treasury to a drain, the extent of which could not be accurately computed in advance. It has, therefore, been amended so that the administration of the law shall not cause any expense to the Government; the referee will receive a commission directly from each estate administered before him, upon the conclusion of his services in each case, and a small filing fee.

Trustees will be appointed and their bonds will be fixed by the creditors at their first meeting. This arrangement will prevent many abuses which existed under the old law by reason of the trustee being ap-

pointed by the judge. He will receive as compensation a small commission on amounts paid in dividends and a petty filing fee.

Since the courts are open all the year round for the transaction of business and the officers are paid but a small compensation, and in such a way as to financially interest them in promptly performing their duties, it necessarily follows that administrations under the bill will be expeditious and inexpensive.

The rights of creditors are set forth in chapter 4; the provisions are in brief as follows:

The first meeting of the creditors will be held, unless manifestly inconvenient to them, at the county seat of the county in which the bankrupt resided.

Proofs of claims may be made by the oath of the claimant before any State or Government officer authorized to administer oaths and delivered or sent by mail to the court. On being received they will be allowed without a trial. If it should be desirable to contest any claim, it may be suspended upon motion, and thereupon the evidence will be taken as to its validity. Evidence as to contested claims may be taken at the homes of the witnesses, as in other proceedings.

Notices of the various steps in the administration will be given to all creditors so that they can, if they desire, be heard in favor of or in opposition to any proposed proceeding.

The concurrence of three creditors will be required for the commencement of proceedings in bankruptcy. They must together have unsecured claims aggregating at least $500. This provision seems just, since the proceedings are on behalf of and for the benefit of all parties in interest. It is believed that it will prevent the bringing of any suits as the result of pique or spite or from any improper motives. If the creditors are less than twelve in number one creditor holding such a claim may file the petition.

All creditors will have the right to join in the proceedings either as petitioners or as defendants.

The giving or receiving of preferences is forbidden. The trustee may recover the value of all preferences which have been given within four months before the filing of the petition. This provision is to prevent fraud and favoritism, and to secure the equitable division of the estate.

Debts of the same class are of equal sacredness; they ought therefore to be paid rateably, irrespective of the relationship or residence of the parties. That is, if the creditor has security for a claim, the security should be applied to the payment of the debt; but an equal percentage should be paid on the unsecured claims.

This provision will prevent frauds which, under present laws, are of daily occurrence; will make unnecessary the expenditure of large sums in costs; will save many honest men from being broken up in business by a selfish strife for preferences between their creditors; and will establish for the benefit and profit of the commercial world those rules of equity which have been in force ever since the rigors of the common law gave rise to the development of the system of equity law.

Chapter 5 treats of the estates of bankrupts. The following are among its provisions:

The committee thought it unwise that an estate should be subjected to the danger of investing the funds, and the section upon that subject was therefore stricken out.

All moneys must be deposited in a designated bank or banks; pay-

ments must be made only by checks or drafts. It is not proposed that trustees shall use bankruptcy funds for their own benefit and be thereby interested in delaying the payment of dividends.

The expenses of administering estates are limited to those which are actually necessary, and must be reported in detail under oath and be allowed by the court before being paid.

Debts which are secured by valid liens will first be paid out of the property. Other debts will be paid out of the unexempted property in the following order: Filing fees paid by creditors, costs, wages which have been earned within three months, not to exceed $300 to each claimant; and claims which have priority by State or Federal laws.

Liquidated debts may be proved. Unliquidated claims will be liquidated as the court may direct, and may then be proved.

Dividends will be paid whenever the money on hand will warrant it and upon the closing of the estate.

Valid liens will be enforced; fraudulent ones may be set aside through the ordinary processes of law.

Ordinarily the bankrupt will not be disturbed in the possession of his property after the filing of the petition and before the trial; in other words, the status of the property will remain the same as in an ordinary suit, but if it be apparent that there is danger to the property, such as is usually incident when attachments are issued, and the creditors can convince the court of such fact, and give a bond to the defendant, the property may be taken in custody; but the debtor has the right to retain it upon giving a forthcoming bond.

These provisions secure the rights of the debtors and of the creditors, and prevent the waste of the property in a much more satisfactory manner than the attachment laws of the States.

Under most of the State laws the debtor can not give a forthcoming bond; if property is seized in a State other than that in which the defendant resides he can not obtain his exemptions therefrom, and there can not be a recovery on the bond, because he is a nonresident, no matter how unfounded the claim may prove to be. Suits may be prosecuted wherever property may be found, or debtors may be discovered to garnishee.

Both debtors and creditors will be incalculably benefited by the substitution of this single, simple and economical method for the absolute protection of the equitable rights of all parties, in place of the diverse, complex and expensive proceedings which must now be used when calamities come to those who are conducting transactions on credit.

It was feared by the committee, in view of the administration under the last bankrupt law, that the discretion vested in the court and officers with regard to the sale of the property might not always be wisely exercised, and hence a provision was inserted that the personal property of all estates shall be appraised before being sold, and that it shall not be sold for less than 75 per cent of the appraised value, unless such sale shall have been first reported to the court and approved by it, after notice to the creditors.

In minor respects the bill has been modified by the committee so as to better accomplish the ends in view, namely, the diminution of fraud, the discharge of honest insolvents, and the prompt and inexpensive administration of bankruptcy estates.

There is nothing in this substitute which if it becomes a law, will *create* any charge on the Treasury.

A summary of the bill is appended hereto.

RECOMMENDATION.

The people are entitled to enjoy all of the rights secured to them by the Federal Constitution; one of these rights is to have enacted a bankruptcy law; that right can not be enjoyed except pursuant to an enactment by Congress; bodies of all sorts and petitioners of all classes from every part of the country have been for years, and are now, demanding the passage of this bill with an impressive unanimity. The right exists, the demand is made, and Congress ought to act.

We believe that this bill is a wise, conservative, and economical measure, and meets the just demands of the people. It is so guarded in its provisions that it will not be subject to the abuses and corrupt practices which prevailed in the administration of former bankrupt laws.

Your committee recommend the adoption of the substitute, and that H. R. 459, 616, and 2600 be laid upon the table.

APPENDIX.

A SUMMARY OF H. R. 9348.

[The Torrey bankrupt bill.]

See bird's-eye index, p. 22.

A summary of the bill in five words is as follows:
"A square deal all around."

A summary in a paragraph is as follows:
A measure for the discharge of honest insolvents, the diminution of fraud, the prompt and economical administration of bankruptcy estates, the maintenance of integrity in transactions on credit, and the promotion of commerce.

A summary by chapters and sections is as follows:

CHAPTER I.—*Bankrupts.*

Sections.
1. Meaning of Words and Phrases.
2. Acts of Bankruptcy.
3. Who may Become Bankrupts.
4. Partners.
5. Exemptions of Bankrupts.
6. Duties of Bankrupts.
7. Death or Insanity of Bankrupts.
8. Protection and Detention of Bankrupts.
9. Extradition of Bankrupts.
10. Suits by and against Bankrupts.
11. Compositions, when Confirmed.
12. Compositions, when Set Aside.
13. Discharges, when Granted.
14. Discharges, when Revoked.
15. Co-Debtors of Bankrupts.
16. Debts not Affected by a Discharge.

Section 1.—Words and phrases are given certain meanings in order to prevent unnecessary repetition, *e. g.*, "courts of bankruptcy" shall include the district courts of the United States and Territories and the supreme court of the District of Columbia; "persons" shall include corporations, officers, partnerships, and women.

Sec. 2.—Acts of bankruptcy by a person shall consist of his having, within six months before the filing of a petition against him, concealed himself to defeat his creditors; failed for thirty days, or conditionally within such time, while insolvent to secure the release of property levied upon for $500 or over; made a transfer of property to defeat his creditors; made an assignment or filed in court an admission of insolvency; made, while insolvent, an option contract; made, while insolvent, a preference; procured or suffered a judgment against himself to defeat creditors; secreted property to avoid process; suffered, while insolvent, executions for $500 or over to be returned unsatisfied; or suspended and not resumed, while insolvent, payment of commercial paper for thirty days for $500 or over.

The time within which proceedings in bankruptcy may be instituted shall not begin to run until parties in interest shall have had an opportunity to be advised of the facts.

Sec. 3.—Any person who owes debts, except a corporation, shall be entitled to the benefits of this act as a voluntary bankrupt.

Any person whose debts amount to $500 or over, if adjudged an involuntary bankrupt upon a fair and impartial trial, shall be subject to the provisions of the act, except a national bank, a person engaged chiefly in farming or the tillage of the soil, or a wage-earner.

Sec. 4.—Partners may be adjudged bankrupts. The partnership creditors, if all of them are adjudged bankrupts, shall nominate the trustee. The court first obtaining jurisdiction over one partner may have jurisdiction of all of them and of the partnership estate, if all of the partners are adjudged bankrupts. If any one or more

partners are not adjudged bankrupt they shall settle the estate and account for the share of the bankrupt partners.

Sec. 5.—The bankrupt will be allowed the exemptions provided by the laws of his State.

Sec. 6.—The bankrupt shall attend the first meeting of his creditors if requested by any of them to do so, and the hearing upon the petition for a discharge; comply with the orders of the court; examine claims as to their correctness against his estate; execute such papers as may be necessary; inform his trustee of attempts to commit fraud by his creditors; file a schedule of his property and list of his creditors, and submit to an examination concerning the conducting of his business, the cause of his bankruptcy, his dealings with his creditors and other persons, and the amount and whereabouts of his property.

Sec. 7.—The death or insanity of a bankrupt shall not abate the proceedings in bankruptcy.

Sec. 8.—Bankrupts are exempt from arrest upon civil process, except in certain cases.

Sec. 9.—Bankrupts may be extradited from one district to another in accordance with the laws now in force upon that subject.

Sec. 10.—Certain suits shall be stayed, subject to the order of the court of bankruptcy. Suits by and against bankrupts may be prosecuted or defended by trustees. Suits shall not be brought by or against the trustee subsequent to two years after the estate has been closed.

Sec. 11.—A composition may be offered after, but not before, the bankrupt has been examined in open court or at a meeting of his creditors, and after he has filed a schedule of his property and list of his creditors. The application may be filed in court after, but not before, it has been accepted by a majority in number and amount of all the creditors whose claims have been allowed, and after the consideration to be paid and the money necessary to pay debts which have priority and the costs of the court have been deposited subject to the order of the judge. After these conditions have been complied with and the application has been filed a time will be fixed for the hearing and the composition will be confirmed if it is for the best interests of the creditors; if the bankrupt is entitled to a discharge; if his embarrassment is not due to his fraudulent acts; and if the offer and acceptance are in good faith and have been properly procured. The confirmation of a composition will result in the discharge of the bankrupt, except from a compliance with the terms of the composition.

Sec. 12.—A composition will be set aside upon application made within six months after it is confirmed if it was fraudulently obtained.

Sec. 13.—A person, not a corporation, may, after the expiration of two months after the adjudication and within the next four months, apply for a discharge; if it is impossible to file the petition within that time the judge may permit it to be filed within the next six months, but not thereafter. A discharge shall not be granted to a person who has committed an offense punishable by imprisonment or fine (see section relating to offenses), given a preference which has not been surrendered, knowingly made a materially false statement concerning his financial condition, made a transfer of his property which might have been impeached as fraudulent unless it has been surrendered to the trustee, or with fraudulent intent destroyed or neglected to keep books showing his financial condition.

Sec. 14.—A discharge may be revoked upon application filed within two years after being granted if it transpires that it was fraudulently procured.

Sec. 15.—Co-Debtors of bankrupts shall not be affected by the discharge of such bankrupts.

Sec. 16.—A discharge shall release the bankrupt, not a corporation, from provable debts, except such as are due as a tax, have not been duly scheduled, or were created by fraud, embezzlement, or defalcation while acting as an officer or in a fiduciary capacity.

CHAPTER II.—*Courts.*

Sections.
17. Jurisdiction of Courts of Bankruptcy.
18. Process, Pleadings, and Adjudications.
19. Jury Trials.
20. Oaths, Affirmations.
21. Evidence.
22. Reference of Cases after Adjudication.
23. Jurisdiction of United States Circuit Courts.
24. Jurisdiction of Appellate Courts.
25. Appeals and Writs of Error.
26. Arbitration of Controversies.
27. Compromises.
28. Designation of Newspapers.
29. Offenses.
30. Rules, Forms, and Orders.
31. Computation of Time.
32. Transfer of Cases.

Sec. 17.—Courts of bankruptcy are invested with original jurisdiction in proceedings in bankruptcy.

Sec. 18.—Upon the filing of an involuntary petition process will be issued as in

equity cases returnable within fifteen days. The answer must be filed under oath in ten days after the return day. If a defense is made the court, with or without the intervention of a jury, shall determine the controversy. If no defense is made the judge shall enter the judgment, if present; if he is absent the case shall be referred to the referee. Creditors other than those initiating the proceedings may appear either as petitioners or defendants.

Sec. 19.—Jury trials may be had upon application of bankrupts as now provided by law.

Sec. 20.—Oaths or affirmations may be administered by referees, State and Federal officers now authorized by law to administer oaths, and diplomatic or consular officers in foreign countries.

Sec. 21.—Any person may be examined wherever found as a witness in any bankruptcy proceeding. Depositions will be taken under the laws now in force upon that subject. Notices of the taking of depositions will be filed with the referee in every case, and will be served upon the parties in interest in given cases. Records of the courts may be used as evidence.

Sec. 22.—After the adjudication the judge will cause the estate to be administered, or refer it to the referee for general or special purposes, and may at any time change the reference.

Sec. 23.—Circuit courts of the United States are given jurisdiction of controversies about the property of bankrupt estates in the same manner and to the same extent as though bankruptcy proceedings had not intervened. The trustee can only sue in the State or Federal court in which the bankrupt might have sued had he not become a bankrupt, except by consent. United States circuit courts have jurisdiction over persons who have committed offenses.

Sec. 24.—Appellate courts will have jurisdiction to hear cases brought by appeal or writ of error from bankruptcy courts in term time and vacation. In cases in which appeals and writs of error will not lie they will have a superintending control over proceedings had in bankruptcy courts.

Sec. 25.—Appeals and writs of error may be taken in controversies involving $500 or over, adjudications upon petitions, the granting or refusing of applications for removal of cases, and the granting or dismissal of petitions for discharges within ten days, in accordance with the laws now in force, except that the same shall be returnable within ten days, unless further time be granted. Trustees are not required to give bonds when they appeal or sue out writs of error.

Sec. 26.—The arbitration of controversies may be had between trustees and opposing parties.

Sec. 27.—Compromises may be made by the trustees with adverse claimants.

Sec. 28.—Newspapers for the publication of notices shall be designated by the court.

Sec. 29.—Officers who embezzle, bankrupts who defraud, and creditors who present false claims may be punished by imprisonment for not exceeding two years. Bankruptcy officers who neglect to perform their duties may be fined not to exceed $100 for each offense. Proceedings for the punishment of wrongdoers must be commenced within one year.

Sec. 30.—Rules, forms, and orders shall be prescribed by the Supreme Court. Courts of bankruptcy may prescribe additional rules and orders.

Sec. 31.—Time shall be computed according to a uniform rule.

Sec. 32.—In the event that proceedings are begun in several courts, each of which has jurisdiction, the cases in all of the courts but one may be transferred to such court to be consolidated and administered.

CHAPTER III.—*Officers.*

Sections.
33. Creation of two Offices.
34. Appointment of Referees.
35. Qualifications of Referees.
36. Oaths of Office of Referees.
37. Number of Referees.
38. Jurisdiction of Referees.
39. Duties of Referees.
40. Compensation of Referees.
41. Contempts before Referees.
42. Records of Referees.
43. Absence or Disability of Referees.
Sections.
44. Appointment of Trustees.
45. Qualifications of Trustees.
46. Death or Removal of Trustees.
47. Duties of Trustees.
48. Compensation of Trustees.
49. Accounts and Papers of Trustees.
50. Bonds of Referees and Trustees.
51. Duties of Clerks.
52. Compensation of Clerks.
53. Duties of Attorney-General.
54. Statistics of Bankruptcy Proceedings.

Sec. 33.—The offices of referee and trustee are created.

Sec. 34.—Courts of bankruptcy shall appoint and remove referees, and prescribe and change their districts.

Sec. 35.—Referees may be commissioners of deeds, justices of the peace, masters in chancery, or notaries public, but shall not hold other offices of profit or emolument; they shall not be related to the judges.

Sec. 36.—Referees shall take the oath of office prescribed for United States judges.

Sec. 37.—There shall be such number of referees as may be necessary to expeditiously transact the business of the court.

Sec. 38.—Referees may exercise the powers of the courts for the production of evidence, except the power of commitment; and their jurisdiction to enforce the act, except as to discharges, compositions, and the seizure of the property of bankrupts.

Sec. 39.—The referee shall cause estates to be promptly administered.

Sec. 40. Referees shall receive as their compensation in each case a ten-dollar filing fee and a commission of 1 per cent on the dividends paid when estates are administered, and half that amount when there is a composition.

Sec. 41. Persons may be punished by courts of bankruptcy for the commission of contempts before referees.

Sec. 42. Records of referees shall be kept in the same manner as courts keep their equity records; those of each case shall be kept in a separate book.

Sec. 43. Whenever a referee is absent or becomes disqualified the judge may appoint another referee to act, or may act personally.

Sec. 44. Trustees shall be appointed by the creditors, or, if they fail to act, by the court.

Sec. 45. Trustees may be individuals or trust companies.

Sec. 46. The death or removal of the trustee shall not abate any suit or proceeding.

Sec. 47. Trustees shall promptly administer the estates.

Sec. 48.—Trustees shall be paid, as full compensation, a five-dollar filing fee and 5 per cent on the first $5,000 paid to creditors in dividends, 2 per cent on the second $5,000, and 1 per cent on additional amounts.

Sec. 49.—The accounts and papers of trustees shall be open to the inspection of all parties in interest.

Sec. 50.—Referees and trustees shall give bonds, under very careful restrictions, with solvent sureties, conditioned for the performance of their official duties. The court shall fix the amount of the bond of the referee. The creditors shall fix the amount of the bond of the trustee, and may increase it.

Sec. 51.—Clerks shall perform their duties and account for the moneys received.

Sec. 52.—Clerks shall be paid, as full compensation, a filing fee of $10 in each case.

Sec. 53.—The Attorney-General shall collect and lay before Congress statistics as to proceedings in bankruptcy.

Sec. 54.—Bankruptcy officers shall make reports to the Attorney-General for statistical purposes.

CHAPTER IV.—*Creditors.*

Sections.
55. Meetings of Creditors.
56. Voters at Meetings of Creditors.
57. Proof and Allowance of Claims.
58. Notices to Creditors.
59. Who may File and Dismiss Petitions.
60. Preferred Creditors.

Sec. 55.—The first meeting of the creditors shall be held after ten and within thirty days after the adjudication at the county seat of the county in which the bankrupt has done business, resided or had his domicile; or if such place is manifestly inconvenient as a meeting place, or if such meeting by any mischance is not held within such time, the court shall fix the time and place most convenient to the parties in interest. The judge or referee shall preside. The bankrupt may be examined. Subsequent meetings shall be called as occasion may require. The court shall call a meeting whenever one-fourth or more in number and amount of the creditors request it; a majority or more of the creditors may fix the place of meeting. Meetings after the first one may be held by consent without notice.

Sec. 56.—Creditors at their meetings shall determine matters submitted to them by a majority vote in number and amount of those present.

Sec. 57.—The proof of a claim shall consist of a statement under oath by the creditor, setting forth the claim, the consideration therefor, the securities held, the payments made and the sum claimed as still due. Claims shall be allowed unless objection is made. Objections shall be heard and determined in a summary way. Claims of creditors who have received preferences shall not be allowed, unless they surrender their preferences. The value of securities held shall be determined and the amount realized be credited upon the claims and a dividend shall be paid only on the unpaid balance.

Sec. 58.—The creditors shall have ten days' notice, unless they waive it in writing, of examinations of the bankrupt; hearings upon applications for the confirmation of a composition or a discharge; meetings of creditors; anticipated sales of property; the filing of the final accounts of trustees; the declaration and time of payment of dividends; the proposed compromise of controversies; and the proposed dismissal of proceedings.

Sec. 59.—Petitions may be filed or dismissed by three creditors of a bankrupt who together have provable claims in excess of securities held, for at least $500; if there are less than twelve creditors, one of them holding such a claim may file the petition. Creditors other than the original petitioners may become petitioners or defendants.

Sec. 60.—Preferred creditors are those who have within four months before the filing of a petition procured property from an insolvent with intent to defeat the operation of the act; or for the purpose of obtaining a greater percentage of their debts than other creditors of the same class; if the person receiving such preference has reasonable cause to believe that a fraud upon this act was intended the property received, or its value, may be recovered by the trustee.

CHAPTER V.—*Estates.*

Sections.
61. Depositories for Funds.
62. Expenses of Administering Estates.
63. Debts which may be Proved.
64. Debts which have Priority.
65. Declaration and Payment of Dividends.
66. Unclaimed Dividends.
67. Liens.
68. Set-Offs and Counter Claims.
69. Possession of Property.
70. Title to Property.

Sec. 61.—Depositories for money shall be designated by the courts. They shall be required to give such bonds as the court may deem necessary.

Sec. 62.—Expenses shall be reported in detail under oath, and shall not be paid until allowed by the court.

Sec. 63.—Debts may be proved which are a fixed liability, as evidenced by a written instrument, and owing at the time of the filing of the petition, whether then due or not; due as costs; and judgments rendered after the filing of the petition. Unliquidated debts may be liquidated and proved.

Sec. 64.—Debts which have priority are those which are due as taxes, when there is property on which they constitute a lien. Other debts which have priority are the filing fees paid by the creditors; the costs of administration; wages due to employés which have been earned within three months before the filing of the petition, not to exceed $300 to each employé; and debts which have priority by the laws of the States or the United States.

Sec. 65.—Dividends of an equal percentage will be declared and paid on all claims, except such as have priority, or are secured; the first dividend shall be declared within thirty days after adjudication, if the money equals five per cent or more. Subsequent dividends may be declared as often as the money equals ten per cent and upon the closing of the estate.

Sec. 66.—Dividends unclaimed for six months shall be paid into court. Such as remain unclaimed for two years shall be distributed to the creditors until they are paid in full and then be paid to the bankrupt.

Sec. 67.—Claims which would not have been valid liens as against the claims of creditors of a bankrupt shall not be liens against the estate. Whenever a creditor is prevented from enforcing his rights as against a lien created or attempted to be created by his debtor, the trustee may enforce such lien for the benefit of the estate. Liens obtained by compulsory processes begun against a person within four months before the filing of the petition shall be dissolved in the event of an adjudication, or if such dissolution would militate against the best interests of the estate, they shall not be dissolved, but the trustee shall protect and enforce them for the benefit of the estate. If a lien shall have been realized upon, the amount may be recovered by the trustee. Liens given in good faith and for a present consideration shall not be affected by bankruptcy proceedings.

Sec. 68.—Set-offs and counter claims may be enforced as between the trustee and the person with whom the bankrupt dealt, but not between the trustee and a purchaser with notice.

Sec. 69.—The bankrupt's property may be seized by order of the court after the filing of the petition and before the adjudication, if there is danger of its being improperly transferred, upon the giving of bond by the creditors; the defendant may give a forthcoming bond and retain possession of the property.

Sec. 70.—The title of the bankrupt to property, except such as is exempt, shall vest in the trustee as of the date of the filing of the petition. The trustee may institute proceedings to have set aside any fraudulent transfer made by the bankrupt. All personal property shall be appraised. Personal property shall not be sold for less than 75 per cent of its appraised value, except subject to the approval of the court. All real and mixed property shall be sold subject to the approval of the court.

Bird's-Eye Index of the Torrey Bankrupt Bill.

(Motto:—"A Place for Everything, and Everything in its Place.")

BANKRUPT LAW

Sections.

Chap. I. Bankrupts.

1. Meaning of Words and Phrases.
2. Acts of Bankruptcy.
3. Who may Become Bankrupts.
4. Partners.
5. Exemptions of Bankrupts.
6. Duties of Bankrupts,
7. Death or Insanity of Bankrupts.
8. Protection and Detention of Bankrupts.
9. Extradition of Bankrupts.
10. Suits by and against Bankrupts.
11. Compositions, when Confirmed.
12. Compositions, when Set Aside.
13. Discharges, when Granted.
14. Discharges, when Revoked.
15. Co-Debtors of Bankrupts.
16. Debts not Affected by a Discharge.

Chap. II. Courts.

17. Jurisdiction of Courts of Bankruptcy.
18. Process, Pleadings, and Adjudications.
19. Jury Trials.
20. Oaths, Affirmations.
21. Evidence.
22. Reference of Cases after Adjudication.
23. Jurisdiction of United States Circuit Courts.
24. Jurisdiction of Appellate Courts.
25. Appeals and Writs of Error.
26. Arbitration of Controversies.
27. Compromises.
28. Designation of Newspapers.
29. Offenses.
30. Rules, Forms, and Orders.
31. Computation of Time.
32. Transfer of Cases.

Chap. III. Officers.

33. Creation of two Offices.
34. Appointment of Referees.
35. Qualifications of Referees.
36. Oaths of Office of Referees.
37. Number of Referees.
38. Jurisdiction of Referees.
39. Duties of Referees.
40. Compensation of Referees.
41. Contempts before Referees.
42. Records of Referees.
43. Absence or Disability of Referees.
44. Appointment of Trustees.
45. Qualifications of Trustees.
46. Death or Removal of Trustees.
47. Duties of Trustees.
48. Compensation of Trustees.
49. Accounts and Papers of Trustees.
50. Bonds of Referees and Trustees.
51. Duties of Clerks.
52. Compensation of Clerks.
53. Duties of Attorney-General.
54. Statistics of Bankruptcy Proceedings.

Chap. IV. Creditors.

55. Meetings of Creditors.
56. Voters at Meetings of Creditors.
57. Proof and Allowance of Claims.
58. Notices to Creditors.
59. Who may File and Dismiss Petitions.
60. Preferred Creditors.

Chap. V. Estates.

61. Depositories for Funds.
62. Expenses of Administering Estates.
63. Debts which may be Proved.
64. Debts which have Priority.
65. Declaration and Payment of Dividends.
66. Unclaimed Dividends.
67. Liens.
68. Set-Offs and Counter Claims.
69. Possession of Property.
70. Title to Property.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REP. No. 67. Part 2.

BANKRUPT LAW.

OCTOBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BAILEY, from the Committee on the Judiciary, submitted the following as the

VIEWS OF THE MINORITY.

The undersigned members of the Judiciary Committee, while differing among themselves as to the necessity for any bankrupt law and as to the character of such measure if any is desirable, unite in opposing so much of the bill reported by the committee as provides for involuntary bankruptcy for any cause except for actual fraud.

D. B. CULBERSON.
J. W. BAILEY.
WM. A. STONE.
CASE BRODERICK.
EDWARD LANE.
I. H. GOODNIGHT.
T. R. STOCKDALE.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 68.

AMENDMENT TO ACT TO REGULATE COMMERCE.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. STORER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2010.]

The Committee on Interstate and Foreign Commerce reports back, without amendment, House bill 2010 and recommends its passage.

It is verbatim the bill reported by this same committee to the Fifty-second Congress with recommendation that it pass.

The law now existing requires of each common carrier, subject to its provisions, that it file its tariff of rates, fares, and charges, so soon as adopted, with the Interstate Commerce Commission.

The obvious purpose of this provision is to insure national publicity, as well as the local publicity sought to be effected by the local publication and posting up such proposed tariffs. While the law thus requires this filing it leaves no remedy for the failure or refusal to obey this provision, except the tedious, expensive, and unbusinesslike means of an appeal to the courts to issue a mandamus against the recalcitrant corporation.

An auxiliary suit in equity to enjoin a carrier from operating under any tariff it refuses to file with the Commission is slow, expensive, and cumbrous, but is the only remedy for any such disobedience to this provision of the law, as the statute now stands.

The amendment proposed provides as an addition to the requirement to file these tariffs that the carrier shall not begin to operate under them until they have been filed; with the proviso for the easier performing of this duty that a duly authorized and accredited agent of any carrier or carriers may act for it.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 69.

LIGHT AND FOG-SIGNAL STATION NEAR BUTLER FLAT, NEW BEDFORD, MASS.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOUK, of Ohio, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 156.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 156) for the establishment of a light and fog-signal station near Butler Flat, New Bedford, Mass., respectfully report it back with the recommendation that it do pass.

The light and fog-signal station herein provided for was recommended to be established in the Annual Report of the Light-House Board for 1892; and that recommendation, as we are assured in a letter from Hon. C. S. Hamlin, Acting Secretary of the Treasury, will be renewed in the forthcoming annual report and annual estimates of the Light-House Board. The letter containing that assurance and an extract from the Annual Report of the Light-House Board of June 30, 1892, are filed herewith and made a part of this report.

TREASURY DEPARTMENT, *September 16, 1893.*

SIR: I have the honor to acknowledge the receipt of a letter from your committee dated September 13, 1893, inclosing House bill No. 156, for the establishment of a light and fog-signal station near Butler Flat, New Bedford, Mass.

This bill with your letter was referred to the Light-House Board, which returned them with the statement that in its annual report for 1892 recommendation was made that an appropriation of $45,000 be made for the establishment of a light and fog signal at Butler Flat. This recommendation is renewed in the forthcoming annual report and annual estimates of the Light-House Board.

A copy of the recommendation made by the Light-House Board in its report for the fiscal year ending June 30, 1892, is inclosed, together with a copy of H. R. bill No. 156.

Respectfully, yours,

C. S. HAMLIN, *Acting Secretary.*

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives, Washington, D. C.

[Extract from the Annual Report of the Light-House Board, June 30, 1892.]

* * * * * * *

Butler Flat, New Bedford Harbor, Buzzards Bay, Massachusetts.—The following recommendation, which was made in the Board's last three annual reports, is renewed:

"The entrance near buoy No. 9, on the point of Butler Flat is narrow, obscure, and difficult to find in snowstorms, fogs, and dark nights. If a light with a fog

signal was placed on that point it would mark both the entrance and turning point; would guide vessels to an anchorage in the lower harbor, and, with the light on Palmer Island, would guide them clear of North Ledge, Henrietta, and Hurricane Rocks, in Buzzards Bay, and be of great service to the navigation of this important port. It is stated by the custom-house authorities that 1,814 vessels entered the port of New Bedford during 1887, not including yachts, fishing craft, or boats. It is also stated that the Vineyard Sound and Nantucket steamers took 75,000 passengers to and from this port, and received $22,500 for freight carried. It is further stated that the New York propellers made 104 trips between New York and New Bedford, and received over $100,000 for freight carried. New Bedford is now said to be the third manufacturing city in Massachusetts, and the collector of the port states that about 500,000 tons of shipping came into the port during last year.

"The Board, as stated in its last annual report, is of the opinion that the needs of commerce and navigation require the establishment of a light and fog signal at this point. It is estimated that they can be erected for $45,000, and it is recommended that an appropriation of this amount be made therefor."

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 70.

AMENDMENT TO CHINESE EXCLUSION ACT.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. R. 3687.]

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 1973) entitled "A bill to amend an act entitled 'An act to prohibit the coming of Chinese persons into the United States,'" approved May 5, 1892, having carefully considered the same, report the accompanying substitute for said bill and recommend its passage.

On the 5th of May, 1892, an act entitled "An act to prohibit the coming of Chinese persons into the United States," was duly approved. At that time, according to the census report of 1890, the Chinese population of the United States was 106,688. Of this number, 95,477 were located in the Pacific States and Territories, and the residue were located in various cities of the United States.

Section 6 of the act above referred to declares:

And it shall be the duty of all Chinese laborers within the limits of the United States, at the time of the passage of this act, and who are entitled to remain in the United States, to apply to the collector of internal revenue of their respective districts within one year after the passage of this act for a certificate of residence, and any Chinese laborer, within the limits of the United States, who shall neglect, fail, or refuse to comply with the provisions of this act, or who, after one year from the passage hereof, shall be found within the jurisdiction of the United States without such certificate of residence, shall be deemed and adjudged to be unlawfully within the United States, and may be arrested by any United States customs official, collector of internal revenue or his deputies, United States marshal or his deputies, and taken before a United States judge whose duty it shall be to order that he be deported from the United States, as hereinbefore provided, unless he shall establish clearly to the satisfaction of said judge that by reason of accident, sickness, or other unavoidable cause he has been unable to procure his certificate, and to the satisfaction of the court, and by at least one credible white witness, that he was a resident of the United States at the time of the passage of this act; and if upon the hearing it shall appear that he is so entitled to a certificate, it shall be granted upon his paying the cost. Should it appear that said Chinaman had procured a certificate which has been lost or destroyed, he shall be detained and judgment suspended a reasonable time to enable him to procure a duplicate from the officer granting it, and in such cases the cost of said arrest and trial shall be in the discretion of the court. And any Chinese person, other than a Chinese laborer, having a right to be and remain in the United States, desiring such certificate as evidence of such right may apply for and receive the same without charge.

After the passage of said act of May 5, 1892, prominent representatives of Chinese persons in the United States employed Messrs. Choate, Carter, and Ashton, three able and experienced attorneys, to examine and render opinions as to the constitutionality of said act. Each of these attorneys rendered opinions, in which they declared unconstitutional the said act of May 5, 1892.

Soon after the passage of said act there were three writs of habeas corpus granted by the circuit court of the United States for the southern district of New York, upon petitions of Chinese laborers arrested and held by the marshal of the district for not having certificates of residence under section 6 of said act; and on appeals in these cases from the circuit court of the United States in and for the southern district of New York, the Supreme Court of the United States held as follows (three of the judges dissenting):

Upon careful consideration of the subject the only conclusion which appears to us to be consistent with the principle of international law and with the Constitution and laws of the United States and with the previous decisions of this court is that in each of these cases the judgment of the circuit court dismissing the writ of habeas corpus is right and must be affirmed.

This decision was not rendered until the 15th day of May, 1893, ten days after the time had expired in which Chinese persons could register and obtain certificates of residence.

It seems just and fair that as many Chinese persons were misled by the opinions rendered by Messrs. Choate, Carter, and Ashton that they should have additional time in which to register and obtain certificates of residence.

The report of the Secretary of the Treasury shows that 13,242 Chinese persons registered under the act of May 5, 1892, leaving 93,445 who failed to avail themselves of the privileges of said act. Assuming that about 10 per cent of these would be entitled to exemption as merchants, students, actors, and others of the exempt class, there would remain about 85,000 liable to deportation under the law. The Secretary of the Treasury says: "The lowest cost for transporting Chinamen from San Francisco to Hongkong is $35 per capita." Other expenses incident to the arrest, trial, and inland transportation would average not less than $35 more per capita. If, therefore, all Chinese persons above referred to who are not registered should be transported to China the cost involved would aggregate in round numbers $6,000,000.

The substitute provides that the act of May 5, 1892, be so amended as to extend the time six months in which Chinese persons may register and obtain certificates of residence; and also amends said act so as to require "one credible witness other than Chinese" that an applicant for a certificate was a resident of the United States on the 5th of May, 1892, instead of "one credible white witness."

The substitute also amends the said act by providing that the words "laborer" or "laborers," wherever used in this act, or in the act to which this is an amendment, shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundrymen, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 71.

C. P. GOOCH.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HUTCHESON, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 3334.]

The Committee on Claims, to whom was referred the bill (H. R. 3334) for the relief of C. P. Gooch, have carefully considered same and recommend that it do pass.

Your committee copy a letter addressed to the Hon. John C. Long and ask that it be considered a part of this report.

This letter in our opinion, is sufficient to establish the claimant's right to receive this sum and to have his bill enacted into a law.

TREASURY DEPARTMENT,
OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., December 17, 1892.

SIR: Your letter of the 14th instant, addressed to Hon. A. D. Hazen, Third Assistant Postmaster-General, relative to the claim of C. P. Gooch for carrying the mails prior to the war, has been forwarded to this office.

In reply I have the honor to inform you that the records in this office show that Mr. Gooch was contractor on route No. 8237, in the State of Louisiana, in 1860 and 1861; that he was paid in full to December 31, 1860, and that a balance stands to his credit for service from January 1 to March 31, 1861, the date to which service has been certified, amounting to $65.

This claim was reported to Congress for appropriation in 1863, but no provision has yet been made for the payment of this class of claims.

Very respectfully,

T. B. COULTER,
Auditor.

Hon. JOHN B. LONG,
House of Representatives, Washington, D. C.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 72.

LOUIS L. WILLIAMS.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CLARK, of Missouri, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 913.]

The Committee on Claims, to which was referred the bill (H. R. 913) for the relief of Louis L. Williams, have had the same under consideration and recommend that the same do pass, for the reasons given in the letter of the Secretary of State and of W. M. Williams, both of which are made a part of this report and appended hereto.

DEPARTMENT OF STATE,
Washington, February 8, 1893.

SIR: I have the honor to acknowledge the receipt of your letter of 4th instant and of the copy of bill (H. R. 6036) for the relief of Louis L. Williams, which you inclose, as also the letter of W. M. Williams, of Booneville, Mo., to Mr. Dockery, herewith returned. A memorandum has been prepared by the Solicitor of the Department, by which it appears that on 10th June, 1890, the governor of Alaska nominated Mr. L. L. Williams, the claimant, one of the Commissioners to represent Alaska on the World's Columbian Commission. Without receiving his appointment, Mr. Williams came on to attend the first meeting of the Commission. A doubt arising as to whether Alaska was entitled to be represented—the matter was still under consideration when the Commission met and adjourned—Mr. Williams being in attendance, but not enrolled.

On the 25th of November, 1890, the Department referred to the Attorney-General the question whether Alaska is a Territory within the meaning of the act of April 25, 1890, and as such entitled to be represented by Commissioners in the World's Columbian Commission. On December 19, 1890, the Attorney-General gave an affirmative decision (19 Atty. Gen., 700), and December 22 commissions were issued and the governor of Alaska so notified December 26, 1890.

On August 17, 1891, Mr. Dickinson, secretary of the World's Columbian Commission, acknowledged receipt of the commissions for the Alaska commissioners and stated that he would hold them till the meeting of the board, September 2, 1891. No oaths have been filed.

I have the honor to be, sir, your obedient servant,

JOHN W. FOSTER.

Hon. CHARLES H. MANSUR,
Committee on Claims, House of Representatives.

BOONVILLE, MO., *May 13, 1892.*

MY DEAR SIR: My brother, Louis L. Williams, has requested me to write to you in reference to a claim which he has pending before Congress and to request you to look into the merits of the same. The Congressman from this district, Mr. Heard, has introduced a bill, I think, upon the subject. The facts are these: The Secretary of State

notified the governor of Alaska that he was authorized to appoint or recommend for appointment two commissioners from that Territory to represent it upon the World's Fair Commission. He appointed my brother as the Democratic member and another party, whose name I have forgotten, as the Republican member. In accordance with this appointment they came on to attend the meeting of the Commission. Under some misconstruction of the act of Congress by a subordinate officer in the State Department a commission was refused on the ground that Alaska was not entitled to representation upon the board.

While the matter was well under consideration the national committee met and adjourned. Afterwards, upon reconsideration by the State Department, the conclusion was reached that Alaska was entitled to the same representation as the other Territories, and commissions were duly issued to the governor's appointees, but this was too late for them to be admitted to the meeting that they had come to attend. Not being enrolled, although in attendance, they could not have their expenses allowed, as provided by the act creating the World's Fair Commission. They came for the express purpose of attending the meeting, and did attend and would have been duly enrolled but for the misconstruction of the law by the official who first examined the matter, and their commissions were subsequently issued by the President. It was no fault of theirs, but was the result of an error upon the part of some officer to whom the matter was referred. They have asked that their expenses be paid as they would have been if the commissions had been issued as required by law. It seems to me that this is right and just. I do not want you to understand me as asking you to do anything more than examine the matter, and, after learning the facts, do just what you think is right and proper in the matter, and I will be fully satisfied with whatever you do. Louis does not want anything done that is not entirely equitable and just. I will be obliged if you will look into the matter.

Very truly, yours,

W. M. WILLIAMS.

Hon. A. M. DOCKERY,
Washington, D. C.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 73.

RIGHTS TO SETTLERS ON CERTAIN LANDS IN OKLAHOMA

OCTOBER 4, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HALL, of Minnesota, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany S. 824.]

The Committee on the Public Lands, to whom was referred Senate bill 824, have had the same under consideration, and report it back to the House with the recommendation that it pass.

This bill has passed the Senate upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior.

It is well known that recently great financial distress has fallen upon the country, and that this condition has borne with especial hardship upon the settlers upon the frontier. At a time when men of great wealth are so generally asking for an extension of time upon their current obligations, it is nothing more than reasonable that to the poor settler upon the public domain should be extended the same lenity.

As to commuting homestead entries and issuing patents upon payment, it is to the advantage of the community that in all cases where the settler is able and desirous of commuting and paying for his land that he should be allowed to do so, for as soon as the land is patented it becomes subject to taxation. There is a large area of land in this part of the Territory which is included in the allotments to the Indians, and such land will not be subject to local taxation for many years, and it is desirable that as much of this land as possible may speedily become subject to taxes. In this new country, schoolhouses must be built, bridges constructed, and public buildings erected, and, in the interest of the local necessities of the people, it is desirable that this bill should be promptly passed.

The committee appends the letter from the Commissioner of the General Land Office in relation to H. R. 5, which is identically the same as the Senate bill.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., September 11, 1893.

SIR: I have had the honor to receive, by reference from your Department, for early report in duplicate and return of paper, House bill No. 5, "Granting settlers on certain lands in Oklahoma Territory the right to commute their homestead entries, and for other purposes," transmitted September 5, 1893, to the Department by Hon. Thomas C. McRae, chairman of the Committee on the Public Lands of the House of Representatives, with a request that you give your opinion as to the propriety of passing the same.

The bill provides:

"That the homestead settlers on the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapaho Indian lands in Oklahoma Territory, be, and they are hereby, granted an extention of two years within which to make the first payment provided for in section sixteen of the act of Congress approved March third, eighteen hundred and ninety-one, entitled 'An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and ninety-two, and for other purposes,' and such payment may be made at any time within four years from the date of the entry of such lands.

"SEC. 2. That any person entitled by law to take a homestead in said Territory of Oklahoma who has already located and filed upon, or who shall hereafter locate and file upon, a homestead within any of the lands in the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapaho Indian lands and the Public Land Strip in Oklahoma Territory, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor, at the expiration of twelve months from the date of locating upon such homestead, upon payment to the United States of one dollar and fifty cents per acre for the land embodied in such homestead: *Provided*, That homestead settlers in the Public Land Strip may receive such patent upon the payment to the United States of the sum of one dollar and twenty-five cents per acre.

"SEC. 3. That all acts in conflict with this act are hereby repealed."

In reply I have the honor to report that, under the President's proclamation of September 18, 1891, the lands ceded by the Citizen Band of Pottawatomie and Absentee Shawnee Indians were thrown open to homestead entry September 23, 1891, as provided in the act of March 3, 1891 (26 Stats., 989-1044).

The lands ceded by the Cheyenne and Arapaho Indians were, under the same act, opened to homestead entry on April 19, 1892, by the President's proclamation of April 13, 1892.

Section 16 of the act of March 3, 1891, *supra*, provides for the disposal of these lands "to actual settlers only, under the provisions of the homestead and town-site laws (except section 2301 of the Revised Statutes of the United States, which shall not apply): *Provided, however*, That each settler on said lands shall, before making a final proof and receiving a certificate of entry, pay to the United States for the land so taken by him, and within five years from the date of the first original entry the sum of $1.50 per acre, one-half of which shall be paid within two years. But the rights of honorably discharged Union soldiers and sailors as defined and described in sections 2304 and 2305 of the Revised Statutes of the United States shall not be abridged, except as to the sum to be paid as aforesaid, and all the lands in Oklahoma are hereby declared to be agricultural lands, and proof of their nonmineral character shall not be required as a condition precedent to final entry."

The first section of the present bill proposes to extend the time within which to make the first payment required by said section 16 of the act of March 3, 1891, so that it may be done at any time within four years from the date of the original entry.

It is understood that the settlers upon these lands are, many of them, poor, and I am credibly informed that to strictly insist upon payment, according to existing law, would involve considerable hardship to them. I am, therefore, of the opinion that the time should be extended within which the first payment may be made.

I recommend, however, that the bill be so amended in its first section that, instead of extending the period within which the first payment shall be made for two years, or so as to allow four years from date of entry for making the first payment, as it now reads, it shall be made to extend such period for one year only, or so as to allow three years from the date of entry for making the first payment, the remainder of the purchase money being required to be paid within five years from that date.

The twenty-first section of the act of May 2, 1890 (26 Stats., 91), provided, in substance, that any person entitled to make a homestead entry in the Territory of Oklahoma, and who has complied with all the laws relating to such homestead settlement, within certain limits therein specified, may receive a patent therefor, at the expiration of twelve months from the date of locating said homestead, upon payment of $1.25 per acre for the land.

By the seventh section of the act of February 13, 1891 (26 Stats., 759), it is provided that any person who made a homestead entry for lands ceded by the Iowa and Sac and Fox bands of Indians, may obtain patent therefor upon payment of $1.25 per acre for the land, at the expiration of twelve months from the date of settlement upon said homestead.

Under section eighteen of the act of May 2, 1890 (26 Stats., 90), the lands in the public land strip were opened to settlement under the provisions of the homestead law, except section 2301, Revised Statutes, no payment being required for said lands.

As purchases of the lands in the original Territory of Oklahoma, by commutation, after one year, and of those lands subsequently ceded by the Indians last named, have been allowed by law, I see no reason why the same provisions of law should not be made applicable to all the lands in Oklahoma Territory.

With the amendment made as suggested, I see no objections to the passage of the bill, which is herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 74.

STATIONS AND DEPOTS ON CERTAIN RAILROADS IN THE TERRITORIES.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. WHEELER, of Alabama, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 3606.]

The Committee on the Territories, to whom was referred the bill (H. R. 3606) to require railroad companies operating railroads in the Territories over a right of way granted by the Government to establish stations and depots at all town sites on the lines of said roads established by the Interior Department, have had the same under consideration and find that certain railroads which pass through what is known as the Cherokee Outlet are doing great injustice to the settlers who have secured lots in town sites established by the Secretary of the Interior.

These railroads have refused to establish depots or stop their trains for the accommodation of passengers, or to receive or deliver freight. These railroads received grants of land for right of way and depot grounds from the United States, and these railroads took their grants with the distinct stipulation in the statute that Congress might at any time amend, add to, or alter, or repeal the act granting the right of way.

The act of March 2, 1887 (24 Stat., p. 446), granted a right of way through the Indian Territory to the Chicago, Kansas and Nebraska Railroad Company.

Section 12 of that act is as follows:

> That Congress may at any time amend, add to, alter, or repeal this act; and the right of way herein and hereby granted shall not be assigned or transferred in any form whatever prior to the construction and completion of the road, except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

By act of Congress June 27, 1890 (26 Stat., p. 181), the Chicago, Kansas and Nebraska Railroad Company was authorized to sell and transfer the road to the Chicago, Rock Island and Pacific Railroad Company, and the first section of said act of June 27, 1890, provides that the transferee of the road shall hold it subject to all conditions, limitations, and requirement of said act of March 2, 1887.

By act of February 27, 1893 (27 Stat. p. 494), Congress granted the Chicago, Rock Island and Pacific Railroad Company a right to extend its road through another portion of the Indian Territory, and in the twelfth section of this act it is provided "that Congress may at any time add to, alter, or repeal said act." The Atchison, Topeka and Santa Fe Railroad also runs through the Cherokee Outlet. It was originally

the Southern Kansas Railroad Company. The act of July 4, 1884, (23 Stat. p. 73), granted the right of way through the Indian Territory to the Southern Kansas Railway Company, and section 12 of that act is in these words:

> Congress may at any time amend, add to, alter, or repeal this act.

The committee are of opinion that Congress has undoubted authority to require said roads to maintain depots at the town sites which were established by the Secretary of the Interior when these lands were open for settlement.

The committee therefore report back bill H. R. 3606 and recommend that it do pass.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 75.

CAIRO, ILL.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 1465.]

The Committee on Claims, to whom was referred the bill (H. R. 1465) for the relief of the city of Cairo, in the State of Illinois, having given same and all the facts in connection therewith very careful and thorough consideration, report as follows:

From the evidence presented it is conclusively shown that the United States Marine Hospital and the United States custom-house and post-office buildings mentioned and described in said bill, together with their grounds, in the city of Cairo, Ill., are the property of the United States. The improvements named in said bill have been made and provided for by the city of Cairo. The amounts mentioned in said bill for improvements of streets and avenues around said Government property, as shown by the evidence, is one-half the actual amounts which the said city of Cairo has paid and for which it is responsible for the improvement of the streets and avenues around said Government property.

Your committee further find that in justice the Government should refund to the city of Cairo, Ill., the amount mentioned in said bill for the improvement of streets and avenues around such property.

Your committee further report that this has been the uniform custom of the Government in such cases, and that there being no general law covering such cases, relief can only be granted by special bill.

Your committee therefore respectfully recommend that said bill as presented do pass.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 76.

CONCORD AND BENNINGTON.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 2084.]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 2084) to remit the penalties on gunboat No. 3, the *Concord*, and gunboat No. 4, the *Bennington*, having had the same under consideration submit the following report:

A bill of this same character, and identical in its provisions, was considered by the Committee on Naval Affairs during the Fifty-second Congress and favorably reported as follows:

The Committee on Naval Affairs, to whom was referred the bill (H. R. 7648) to remit the time penalties exacted by the Secretary of the Navy from N. F. Palmer, jr., & Co., of New York City, in the construction of gunboat No. 3, known as the *Concord*, and gunboat No. 4, known as the *Bennington*, have had the same under consideration, and submit the following report thereon:

The contracts for building these vessels required that they should be completed and ready for delivery within eighteen months from the date of the contracts, and in case of failure in that respect that the contractors should be liable to the imposition of penalties for each day's delay.

In the case of the *Concord* the delay was sixty-five days and the penalties amounted to $3,250, and in the case of the *Bennington* there was a delay of ninety-two days and the penalties amounted to $5,350.

The bill having been referred to the Secretary of the Navy for a report on the facts, the Secretary, after a full statement of the case, says:

"While it was required by the contracts for the construction of the *Concord* and the *Bennington* that those vessels should be constructed of steel of domestic manufacture, the manufacture of steel of the requisite quality was, at the time of the execution of said contracts, but little understood in this country and but few companies were possessed of a plant adequate to its production, and as the construction of several other steel vessels had recently been contracted for by this Department with other firms, the steel manufactories throughout the country were, during the period for which the contractors for the *Concord* and *Bennington* experienced delays in obtaining materials as stated above, taxed beyond their capacity to supply, within the time limited therefor, materials for all of such vessels which would meet the requirements of the Department.

"This cause of delay, though it could not be considered by the Department as a basis for extending the time for the completion of said vessels, was due to circumstances beyond the control of the contractors, and the Government has sustained no loss by reason of the delay."

It appearing from the report of the Secretary that the delay for which the penalties were imposed "was due to circumstances beyond the control of the contractors, and that the Government has sustained no loss by reason of the delay," your committee report back the bill and recommend its passage.

Your committee concur in the conclusions stated in that report and report back the bill and recommend its passage.

Your committee append a letter received from the Secretary of the Navy as evidence.

NAVY DEPARTMENT,
Washington, September 22, 1893.

SIR: Referring to the letter of the Committee on Naval Affairs of the 19th instant requesting the opinion of the Department as to the merits of House bill 2084, "to remit the penalties on gunboat No. 3, the *Concord*, and gunboat No. 4, the *Bennington*," I have the honor to invite the committee's attention to this Department's letter of April 19, 1892, addressed to Hon. William L. Elliot, chairman subcommittee, construction and repair, Committee on Naval Affairs, House of Representatives, wherein the circumstances under which the penalties to be remitted as provided for in the above-named bill were deducted from the contract price of said vessels, are fully stated. A copy of this communication is not inclosed herewith, for the reason that, on account of its length, the copying of it would require considerable time, and that the original is believed to be easily accessible in the files of the committee. In case, however, the committee desires a copy of said communication the same will be furnished as soon as practicable.

Upon perusal of the Department's letter above referred to, it will be observed that the delay in the completion of the *Concord* and the *Bennington*, on account of which penalties were deducted from the contract price of those vessels, was due to circumstances beyond the control of the contractors, viz, the inability of steel manufacturers to furnish the material for which the Quintard Iron Works had made contracts with them, and that the Government suffered no loss by reason of such delay.

In the contract for each of said vessels it is expressly stipulated that the contractors for the vessels shall be responsible for all delays in the completion of the vessel, due to delays on the part of their subcontractors in delivering material, and the Department, therefore, had no power to remit the penalties arising from such delays. As the contractors were, however, without fault in the matter, it would seem that they have an equitable claim to relief, which is a fair subject for the consideration of Congress.

With reference to the committee's request for information as to whether there is within the knowledge of the Department any existing claim or any liability that can hereafter accrue under the terms of the contracts for the construction of the vessels above named, I have to state that after the *Concord* and *Bennington* were subjected to the trial required by the contracts to determine whether they had been constructed according to the plans and specifications, and whether they fulfilled the requirements of the contract, the question of premiums to be paid for horse-power developed by the engines in excess of the contract requirement was definitely settled, the *Concord* having earned a premium which has been paid and the *Bennington* having only fulfilled the requirement of the contract as to the horse-power of her engines; and that there is no matter connected with the contract for either of said vessels concerning which there has been any contention on the part of the contractors that has not been fully and finally settled.

Before the final payments under the contracts were made, the contractors executed and delivered to the Department a final release under the contract of all claims and demands whatsoever, of any nature or kind, arising under the contract.

It is believed that no cause exists for a further claim on the part of the Quintard Iron Works for any additional compensation or allowance on account of the construction of the *Concord* or the *Bennington*, and the Department is satisfied that no liability can hereafter accrue under the contracts for those vessels.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

Hon. AMOS J. CUMMINGS,
Chairman Committee on Naval Affairs, House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 77.

ANNA HUNT.

OCTOBER 4, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. STONE, of Kentucky, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 874.]

The Committee on War Claims, to whom was referred the bill (H. R. 874) for the relief of Anna Hunt, administratrix of George F. Hunt, late of Jefferson County, Miss., as found due by the Court of Claims under the act of March 3, 1883, report as follows:

This claim was referred to the Court of Claims for a finding of facts under the provisions of the act known as the "Bowman act," approved March 3, 1883.

Said claim has been returned with a report, which is as follows:

[Court of Claims. Congressional, No. 6568. George F. Hunt's administrator *vs.* The United States.]

This case, being a claim for supplies or stores alleged to have been taken by or furnished to the military forces of the United States for their use during the late war for the suppression of the rebellion, the court, on a preliminary inquiry, finds that George F. Hunt, the person alleged to have furnished such supplies or stores, or from whom the same are alleged to have been taken, was loyal to the Government of the United States throughout said war.

BY THE COURT.

Filed November 3, 1890.

[Court of Claims. Congressional case, No. 6568. Anna Hunt, administratrix of the estate of George F. Hunt, deceased, *vs.* The United States.

At a Court of Claims, held in the city of Washington on the 6th day of April, A. D. 1891, the court filed the following findings of fact, to wit:

FINDINGS OF FACT.

The claim or matter in the above-entitled case was transmitted to the court by the House of Representatives of the United States by resolution of the 30th day of September, 1890.

Gilbert Moyers, esq., appeared for claimant, and the Attorney-General, by J. C. Chaney, esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The case was argued and submitted the 24th day of March, 1891. It is alleged by the plaintiff in her petition that during the late war the United States forces, by proper authority, took from said George F. Hunt quartermaster stores and commissary supplies of the value of $51,940, and appropriated the same to the use of the United States Army, as follows:

Items.

2 horses	$850
3 horses	500
2 horses	200
98 cattle	3,000
120 sheep	480
21 mules	2,000
10 horses	1,000
2 horses	500
1 Shetland pony	150
12 mares	1,800
1 stallion	1,500
14 colts, 1, 2, and 3 years old	1,400
4 mules	800
6 oxen	300
60 cattle	1,800
40 sheep	120
50 hogs	500
2,000 barrels of corn	2,000
76 mules	15,200
46 horses	8,500
12 colts, 1, 2, and 3 years old	1,200
30 oxen	1,500
36 cows	1,440
80 cattle	2,400
2,000 hogs	2,000
1 stallion	800
Total	51,940

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides find the facts to be as follows:

FINDINGS OF FACT.

I.

George F. Hunt, and Anna Hunt, his wife, and their children were loyal to the Government of the United States throughout the late war.

II.

George F. Hunt was the owner of three plantations in Mississippi, one in Jefferson County and two in Issaquena (now Sharkey) County; the total area of these plantations was 5,400 acres, of which about 2,400 acres were in cultivation.

III.

George F. Hunt died in November, 1863, leaving a widow and four children; the oldest of the children was then 13 years of age.

IV.

The claim was presented to the commissioners of claims where the amount claimed was reduced to $10,000 (under the rule), as claimants had not sufficient means to bring witnesses to Washington.

V.

There were taken from the said plantations by the military forces of the United States during the late war, quartermaster supplies which were appropriated to army use as follows:

In the spring of 1863 supplies reasonably worth the sum of $12,875.

In the autumn of 1864, supplies reasonably worth the sum of $6,570, giving a total loss of $19,445.

BY THE COURT.

Filed April 6, 1891.
A true copy.
Test, this 11th day of January, A. D. 1892.
[SEAL.]

JOHN RANDOLPH.
Assistant Clerk, Court of Claims.

Your committee, therefore, report the accompanying bill for the payment of the amount found due by the Court of Claims, and recommend its passage.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 78.

PUBLIC FOREST RESERVATIONS.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 119.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 119) to protect forest reservations, have had the same under consideration and report it back with the recommendation that it pass with the following amendments:

(1) Strike out in lines 4, 5, and 6 of section 4, the words "in the State or Territory which shall be published, when practicable, in the county in which the same," and insert the following: "at the capital of the State or Territory, and shall also be published, when practicable, in a newspaper printed and published in the county and counties in which such reservation."

(2) Insert, after the word "State," in line 7 of section 6, the words "or Territory."

(3) Add the following new sections:

SEC. 7. That any timber on the public lands, not within a forest reservation, may be sold by order of the Secretary of the Interior in the same manner as is heretofore provided in this act: *Provided*, That it shall be first shown that such cutting will not be injurious to the public interests: *And provided further*, That no timber on the public lands shall be disposed of except in accordance with the provisions of this act.

SEC. 8. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

By the law of March 3, 1891, the President of the United States has been empowered to reserve public timber lands from sale and disposal and to set them aside for forestry purposes.

Under this law President Harrison reserved the following tracts of land.

These reservations were made upon petition of citizens interested in the preservation of forest conditions in the localities where the reservations were wanted.

In Colorado:	
White River plateau	1,198,680
Pikes Peak	184,320
Plum Creek	177,706
Wet Mountain.	
North Fork.	
In New Mexico:	
Pecos River	311,040
In Wyoming:	
Yellowstone Park extension	1,239,040

In North Dakota:	
Turtle Mountain	183,720
In Washington:	
Mount Rainier.	
In Oregon:	
Bull Run	142,080
Cascade Mountain	230,400
In California:	
San Madre	395,520
San Bernardino	375,000
Sierra Nevada	4,480,000

Making in all about 10,000,000 acres.

The objects for which these reservations are made or are to be made, although not defined by law, are represented to be protection of the forest growth against destruction by fire and ax and preservation of forest conditions upon which water conditions and water flow are said to be dependent. The policy of reserving forest land has, therefore, been confined mainly to those localities in which agriculturists are dependent upon irrigation, and the avowed purpose of this policy is to maintain favorable forest conditions, without, however, excluding the use of these reservations for other purposes. Although by law such reservation does not appear to change the condition of these lands as far as the power of the Secretary of the Interior to protect is concerned, constructively their status seems not to be fully defined. It becomes, therefore, desirable to define their status and provide by legislation for means and methods by which to protect and administer this public property in the sense of the policy outlined.

Experience has shown that the Army can be usefully employed in patrolling and protecting such public property, as will appear from the reports of officers detailed for such service in the various national parks.

These reservations are not in the nature of parks set aside for non-use, but they are established solely for economic reasons.

It becomes, therefore, necessary, also, to prescribe the manner and methods by which the timber growing thereon, the mineral contained therein, the water powers furnished by them, and the pasturage within the same shall be used, so as not to injure or destroy the primary objects for which these reservations have been made, namely, to secure such forest conditions as are necessary to preserve an even water flow. The present legislation, therefore, empowers the Secretary to sell, under certain restrictions, the timber of commercial value on these reservations, to regulate the occupancy of the same, and to protect the same against fire and depredation.

The committee believe that the practice of issuing permits to cut public timber free should be discontinued, and that the Government should receive for such as can be cut without injury to the forest the reasonable commercial value, and they think this principle should be applied to all public lands not fit for cultivation.

A bill substantially like this was reported favorable to the House of Representatives in the Fifty-second Congress, and received the approval of Secretary Noble and Commissioner Stone.

This bill has been submitted to the Interior Department, as now organized, and it is strongly urged both by the Commissioner and Secretary.

The committee appends to this report the letters from the Commissioners and Secretaries.

DEPARTMENT OF THE INTERIOR,
Washington, October 4, 1893.

SIR: Inclosed I hand you a copy of a letter from the Commissioner of the General Land Office, in answer to reference of H. R. 119. I concur in all that the Commissioner says in favor of legislation of the character proposed. I can not say that I think it necessary to change, in section 4, line 16, the provision for the expenditure of money raised by the sale of the timber.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. THOMAS C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., September 25, 1893.

SIR: I am in receipt, by reference from the First Assistant Secretary, for report, of a letter from Hon. T. C. McRae, dated the 10th instant, inclosing a copy of House bill No. 119, "to protect public forest reservations."

The provisions of this bill meet with my approval, but I would suggest one change in section 4 and the addition of two sections, as follows:

In section 4, line 16, after the word "expended," insert "under the direction of the Secretary of the Interior;" and after the word "reservations," in line 17, strike out the words "in such manner as Congress may provide." This will make funds for the superintendence of the reservations more promptly available than to wait for further legislation by Congress; and it is the evident purpose of the bill to have the proceeds derived under its provisions expended in the utilization and preservation of the reservation.

I think it wise and proper to add the following sections to the bill:

"SEC. 7. That any timber on the public lands, not within a forest reservation, may be sold by order of the Secretary of the Interior in the same manner as is heretofore provided in this act: *Provided*, That it shall be first shown that such cutting will not be injurious to the public interests: *And provided further*, That no timber on the public lands shall be disposed of except in accordance with the provisions of this act.

"SEC. 8. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed."

The above will accomplish the repeal of the permit act of March 3, 1891 (26 Stat., 1093). The rules and regulations prescribed by this Department under this act have never been observed to any great extent by the people, and it has been found almost impossible to enforce them.

It was hoped the act of March 3, 1891, would place the cutting of public timber under the control of this office, and prevent trespassing; but it must be admitted that it has resulted in failure to do so for want of proper agencies in the field of operation.

Permits to cut public timber have been issued, the privilege in many instances being worth thousands of dollars, to corporations who are in the business for speculation and profit only; and, if public necessity demands the use of public timber, it seems to me that it is eminently proper and business like that some revenue should be derived from such a valuable commodity, especially when the proceeds could be applied with such great advantage to the supervision and improvement of the forest reservations and the proper use of timber within them, and the protection of public timber generally.

This office has received information from various sources, including men engaged in the lumbering business, that a law permitting the sale of public timber at stumpage value would be acceptable.

Prompt and effective legislation on this subject can not be too strongly urged. Forest reservations have been made which are such only in name. For lack of means they are no more protected by reason of reservation than any other public lands. Information comes almost daily showing continued trespassing and depredating within the reserves, committed by lumbermen, prospectors, sheep-herders, and others, and forest fires, caused by the careless and vicious, resulting in irreparable damage, especially those started by sheep herders in the mountain districts in the fall to create new pasturage for the following season.

In conclusion I call attention to the fact that the provisions of this bill are applicable to all the public land States and Territories, and not restricted to a few States and Territories, as public timber privileges have been heretofore.

I respectfully urge that this bill, with the amendments suggested, become a law, and I herewith return Mr. McRae's letter with the inclosed bill.

Very respectfully,

EDW. A. BOWERS,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, February 2, 1893.

SIR: I herewith inclose copy of the report of the Commissioner of the General Land Office on H. R. bill No. 10101, for the protection of public forest reservations, referred to this Department with request for an expression of views as to the propriety of its passage.

I concur in the conclusions of the Commissioner of the General Land Office. In my judgment the bill does not meet the necessities of the case, as there should be an appropriation adequate to enforce the rules and regulations and give proper supplies to the guard to extinguish fires and otherwise protect the forests, and authority should be bestowed to arrest offenders.

The effect as the bill, as formulated, will be, I think, to increase the responsibility of the Secretary of the Interior in the judgment of the people, without means to effectually discharge the obligations imposed.

Very respectfully,

JOHN W. NOBLE,
Secretary.

Hon. THOMAS C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 26, 1893.

SIR: I have the honor to acknowledge the receipt, by reference from the Department, for report thereon in duplicate and return of papers of H. R. bill No. 10101 for the protection of public forest reservations.

Any discussion of a bill of this nature involves recognizing at the outset the fact that legislation in respect to the timber on public lands should be framed to meet the urgent need existing for a general law which shall authorize the judicious and economic use of so much of the public timber as is absolutely required for the advancement of settlement and the development of the natural resources of the several public-land States and Territories, and shall at the same time insure the preservation of the public timber in localities where it is essential as a conservative of the water supply, or for other climatic or economic purposes; and which shall also repeal all existing acts or part of acts inconsistent therewith.

The near approach, however, of the close of the present session of Congress appears to render extremely doubtful the advisability of undertaking, at this time, the preparation of a law of this nature, since the matter is one requiring serious and deliberate consideration.

It does not, accordingly, appear advisable to attempt, at this juncture, more than to direct efforts toward securing legislation on the same general lines as that at present in operation, with a view to making the same more effective.

With this end in view, a careful consideration of the existing statute providing for the establishment of public forest reservations (act of March 3, 1891, 26 Stats., 1095), reveals that a serious hindrance to the operation of the act lies in the lack of machinery required to administer the same, owing to the fact that Congress, in enacting the law, failed to make provision to carry the same into effect.

Hence, the present need requiring to be met in the matter of public forest reservations appears to be the lack of proper provision for the administration of the reservations created, which need the bill in question purposes apparently to meet.

I am, however, of the opinion that certain modifications or alterations of the bill are required for the following reason: While the same places in the hands of the Secretary of the Interior the power to make required rules and regulations and to establish such service as will insure the objects of the reservations created, the fact appears to be overlooked that such service can not be established without due provisions for defraying the expenses incident thereto.

At present the only apparently contemplated provision for expenses in connection *with caring for* public timber is found in the sundry civil bill, which provides for

the detailing, from time to time, of clerks from the General Land Office "for protecting timber on the public lands, and for the more efficient execution of the law and rules relating to the cutting thereof." It is clear that the ends in view in the protection of public forest reservations would not be adequately met by service of such a nature. It would accordingly seem advisable that the bill under consideration should either make provision for a special appropriation for the establishment and maintenance of the service therein referred to, or else it should be so amended as to make available for the purpose indicated the proceeds arising from the sales of timber therein provided for.

The further matter of the proposed use of the military as a constabulary force in connection with forest reservations commends itself as a measure which would doubtless serve a good purpose in providing an efficient guard for the property, and which would, moreover, go far toward emphasizing to the public the fact that such reservations are under the immediate care of the Government, and, such being the case, all intruders thereon are liable to be summarily dealt with. I am accordingly of the opinion that it would serve the interests of the public to provide a guard of this nature in connection with public forest reservations.

In conclusion, I would state that while, as indicated above, the scope of the bill appears to be far from providing adequate legislation in the matter of public forest reservation, yet, since at this particular juncture it seems inadvisable to attempt more than to secure, in a measure, the proper administration of the reservations created, which is a matter imperatively demanding attention at this time, I have the honor, referring to the above indicated desirable amendments, to recommend the passage of this bill.

The referred paper is herewith returned.

Very respectfully,

W. M. STONE,
Commissioner.

The SECRETARY OF THE INTERIOR.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 79.

HEIRS OF MRS. CATHERINE P. CULVER.

OCTOBER 5, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. RICHARDS, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 684.]

The Committee on Claims, to whom was referred the bill (H. R. 684) for the relief of the heirs of the late Mrs. Catherine P. Culver, submit the following report :

Mrs. Culver was employed during the Forty-fifth Congress by the chairman of the Committee on Coinage, Weights, and Measures, by direction of that committee, to translate for its use a German work. The translation was submitted to the House December 18, 1878, recommitted to the Committee on Coinage, Weights, and Measures, and ordered to be printed. It is House Mis. Doc. No. 8, Forty-fifth Congress, third session.

The claimant presented her account for making the translation to the Committee on Accounts of the Forty-fifth Congress, and that committee declined to allow the account because the service had not been overauthorized by the House.

Although the translation was not originally authorized by the House, the Committee on Claims are of opinion that the order of the House, directing the translation to be printed as one of its documents was in substance a ratification of the employment of Mrs. Culver under the circumstances before stated, and an acceptance of the results of her labor.

This claim seems to have been reported favorably in the Forty-seventh, Forty-eighth, Forty-ninth, Fifty-first, and Fifty-second Congresses.

The committee therefore recommend the passage of the accompanying bill.

O

WILLIAM P. KEADY.

OCTOBER 5, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELLIS, of Oregon, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 889.]

The Committee on the Public Lands, having had under consideration the bill (H. R. 889) for the relief of William P. Keady, report the same back with the recommendation that it pass.

For the facts the committee adopts the report of the Senate, No. 876, Fifty-second Congress, first session, as follows:

William P. Keady, on the 12th day of June, 1888, with land warrants numbered E 63 and E 296, Valentine scrip, entered certain lands, situate in the State of Washington, in the land office at North Yakima in said State, which entries were allowed by the register and receiver of said office and certificates in due form issued thereon, copies of which are hereto attached, marked Exhibits A and B.

Said Keady laid out said lands as a town site, and sold lots thereon, and the same is now the town of Loop Loop.

It turns out that said lands are a part of what was the Columbia and Colville Indian Reservation, and under the conditions upon which it was restored to the public domain it is supposed that the lands were not subject to entry by scrip.

The purpose of this bill is to validate said entries.

The committee recommend that the bill do pass.

EXHIBIT A.

[Thomas B. Valentine scrip. Act of April 5, 1872. Land warrant No. E 63. Register and Receiver No. 1.]

LAND OFFICE AT NORTH YAKIMA, W. T., *June 12, 1888.*

We hereby certify that the attached Thomas B. Valentine special certificate of location, No. E 63, was on this day received at this office from William P. Keady, of Multnomah County, State of Oregon.

J. H. THOMAS, *Register.*
L. S. HOWLETT, *Receiver.*

I, William P. Keady, of Multnomah County, State of Oregon, hereby apply to locate and do locate the following-described tract of unsurveyed land situated and being in the North Yakima land district, Washington Territory, to wit: Commencing at a post which stands on the west slope of Ruby Mountains, about three hundred feet east of the head of Loop Loop River, in Ruby district, Okanogan County (formerly part of Stevens County), Washington Territory, said post being in the southeast corner; thence running north (77° 30′) seventy-seven degrees and thirty minutes, west thirteen hundred twenty (1320) feet to southwest corner post; thence north (12° 30′) twelve degrees and thirty minutes, east thirteen hundred and twenty (1320) feet to northwest corner post; thence south (77° 30′) seventy-seven degrees and thirty minutes, east thirteen hundred and twenty (1320) feet to northeast corner post; thence south (12° 30′) twelve degrees and thirty minutes, west thirteen hundred and

twenty (1320) feet to place of beginning, containing forty acres (more or less), in the district of lands subject to sale at the land office at North Yakima, W. T., containing forty acres, in satisfaction of the attached warrant numbered E 63, issued under the act of April 5th, 1872.

Witness my hand this 12th day of June, A. D. 1888.

WILLIAM P. KEADY.

Attest:
J. H. THOMAS, *Register.*
L. S. HOWLETT, *Receiver.*

I request the patent to be sent to William P. Keady, Portland, Oregon.

LAND OFFICE AT NORTH YAKIMA, W. T.,
June 12th, 1888.

We hereby certify that the above is correct, being in accordance with law and instructions.

L. S. HOWLETT, *Receiver.*
J. H. THOMAS, *Register.*

EXHIBIT B.

[Thomas B. Valentine scrip, act of Ap'l 5, 1872. Land warrant No. E 296. Register and receiver's No. 2.]

LAND OFFICE AT NORTH YAKIMA, W. T., *June 12, 1888.*

We hereby certify that the attached ——— Thomas B. Valentine, special certificate of location No. E 296, was on this day received at this office from William P. Keady, of Multnomah County, State of Oregon.

J. H. THOMAS, *Register.*
L. S. HOWLETT, *Receiver.*

I, William P. Keady, of Multnomah County, State of Oregon, hereby apply to locate and do locate the following-described tract of unsurveyed land situated and being in the North Yakima land district, Washington Territory, to wit: Commencing at a post which stands on west slope of Ruby Mountain about three hundred feet east of the head of Loop Loop River, in Ruby district, Okanogan County, formerly part of Stevens County, Washington Territory; thence running north (77° 30′) seventy-seven degrees and thirty minutes, west thirteen hundred and twenty (1320) feet; thence north (12° 30′) twelve degrees and thirty minutes, east thirteen hundred and twenty (1320) feet to the southwest corner post of the tract herein described; thence continuing north (12° 30′) twelve degrees and thirty minutes, east thirteen hundred and twenty (1320) feet to the northwest corner post; thence south (77° 30′) seventy-seven degrees and thirty minutes, east thirteen hundred and twenty (1320) feet to the northeast corner post; thence south (12° 30′) twelve degrees and thirty minutes, west thirteen hundred and twenty feet to the southeast corner post; thence north (77° 30′) seventy-seven degrees and thirty minutes, west thirteen hundred and twenty feet (1320) to the place of beginning, in the district of lands subject to sale at the land office at North Yakima, W. T., containing forty acres, in satisfaction of the attached warrant numbered E 296, issued under the act of April 5, 1872.

Witness my hand this 12th day of June, A. D. 1888.

WILLIAM P. KEADY.

Attest:
J. H. THOMAS, *Register.*
L. S. HOWLETT, *Receiver.*

I request the patent to be sent to Wm. P. Keady, Portland, Or.

LAND OFFICE AT NORTH YAKIMA, W. T., *June 12, 1888.*

We hereby certify that the above is correct, being in accordance with law and instructions.

L. S. HOWLETT, *Receiver.*
J. H. THOMAS, *Register.*

TERRITORY OF WASHINGTON, *County of Okanogan, ss:*

This certifies that this instrument was filed for record in the Audt's office of said county on the 15th day of August, 1888, at 8 o'clock and 45 min. a. m., at the request of Mr. Chadwick, and recorded in Book A of Records of Miss. Rd., Okanogan County, W. T., on page 3, ——, 1888.

C. B. BAST,
County Audt. of Okanogan County, W. T.

(Recorded 1st.)

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 81.

AMENDING THE ACT TO REGULATE COMMERCE.

OCTOBER 4, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. STORER, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3207.]

The Committee on Interstate and Foreign Commerce reports without amendment House bill 3207, and recommends the passage of the same.

It is the same bill reported favorably by the same committee of the Fifty-second Congress, with that committee's amendments embodied in it, which passed the House and was favorably reported to the Senate, though not passed for lack of time before the close of that Congress.

As explanatory of the reasons for the passage of the bill, the reasons urged in the report to the Fifty-second Congress are made part hereof.

Much delay and technical difficulty has been met with in hearings before the Interstate Commerce Commission and in trials in United States courts, both on appeals from the Commission and civil suits *inter partes*, by the omission of existing law to make the printed and written documents in the possession of the Commission admissible as legal evidence, with the force of similar documents, etc., of the Executive and Departmental officers of the Government.

The law making copies from the papers and records of all Executive Departments of the Government admissible as evidence (section 882, Revised Statutes) has been held not to include those of the Interstate Commerce Commission.

By existing law the greatest care is taken to place in the hands of the Commission all tariffs, rates, and charges demanded by all common carriers, and all contracts and agreements between, as well as full annual reports by, all common carriers, as specified in section 20 of the commerce act.

Practically all these schedules, contracts, and reports are only printed copies, and therefore unless made records, as is sought to be done by this bill, are not admissible primarily as evidence. No objection can be seen to putting all these documents, schedules, and reports, as regards their legal effect as evidence, on the same footing with similar documents in the possession of other Departmental officers of the Government, and allowing them, when authenticated by the secretary of the Commission, to have the same force that section 882 of Revised Statues gives the authenticated copies of other offices.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 82.

PURCHASERS OF CERTAIN TIMBER LANDS.

OCTOBER 5, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. ELLIS, of Oregon, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 71.]

The Committee on the Public Lands have had under consideration House bill 71, and find it to extend to such officers as are now authorized to take proof in homestead entries the power also to take all necessary affidavits and proofs now required by existing law as to purchasers of timber lands in certain States.

Your committee think this a just privilege, and accordingly report the bill back with recommendation that it do pass, with the following amendment: In line 6, after the word "territory," insert, "approved June 3, 1878, and the act amendatory thereof, approved August 4, 1892."

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 83.

ALBERT WOOD.

OCTOBER 6, 1893.—Laid on the table and ordered to be printed.

Mr. RICHARDS, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany H. R. 830.]

The Committee on Claims, to whom was referred the bill (H. R. 830) for the relief of Albert Wood, have had the same under consideration, and report:

The claimant and Lieut. Col. James A. Ekin, chief quartermaster, department of Texas, on May 1, A. D. 1871, made a contract in writing by which claimant agreed to furnish at the military post of Fort Brown, Tex., 1,000,000 pounds of good, merchantable prairie hay, properly baled, and rated at 2,000 pounds to the ton, subject to a rigid inspection.

When the hay thus stipulated to be delivered was deficient in quantity or quality, the receiving officers were to supply the deficiency by purchase and have the contractor charged with the difference in the cost to the Government.

Twenty-four dollars per ton was to be paid for the hay.

And the contract provided that if objections were made to the hay, a board of three United States officers should be convened to decide whether the hay was receivable according to the conditions of the agreement, and their decision was to be final.

Objection was made to the hay, and a board of officers was convened as provided by the contract. This board found the hay to be made from what is known as wire grass, which consists of a spire ending in a thorn. Twenty-three bales of it were fed to animals for four days, and the horses and some of the mules refused it.

The board decided that the hay was not good, merchantable prairie hay, and rejected it as not conforming to the contract.

Afterward, on August 19, 1873, the claimant filed his petition in the Court of Claims, where, after a full consideration of the evidence, it was determined:

That said hay was not good, merchantable hay, or edible.

That after the rejection of the hay, and in lieu thereof, defendants purchased 274,484 pounds of hay for the supply of Fort Brown, at a cost of $5,266.80, and allowing claimant for the amount of his hay used, the court found that claimant was indebted to the United States, in the sum of $4,419.39.

No part of this sum thus found by the court to be due from him to the Government has ever been paid, and he asks by this bill that he be allowed the sum of $11,580 compensation for hay thus furnished under said contract, and which was thus unfit for use and a total loss to the Government.

Your committee believe his claim untenable and recommend that the bill do not pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 84.

HENRY W. CURTIS.

OCTOBER 6, 1893.—Laid on the table and ordered to be printed.

Mr. BOWERS, of California, from the Committee on Military Affairs, submitted the the following

ADVERSE REPORT:

[To accompany H. R. 2698.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2698) to grant an honorable discharge to Henry W. Curtis, Clay Center, Kans., having considered the same, respectfully report:

The committee has examined the evidence presented with this case, and on the showing made does not consider the claimant entitled to the discharge asked for under the provisions of this bill.

The committee recommend that the bill do not pass.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 85.

JOHN McCOURT.

OCTOBER 6, 1893.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2729.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2729) for the relief of John McCourt, having considered the same, respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the relief asked for under the provisions of this bill.

The committee recommend that the bill do not pass.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 86.

EDWARD JOHN GALLAGHER.

OCTOBER 6, 1893.—Laid on the table and ordered to be printed.

Mr. BOWERS, from the Committee on Military Affairs, submitted the following

ADVERSE REPORT:

[To accompany H. R. 2700.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 2700) granting an honorable discharge to Edward John Gallagher, of Junction City, Kans., having considered the same, respectfully report:

The committee has examined the evidence presented with this case and on the showing made does not consider the claimant entitled to the discharge asked for under the provisions of this bill.

The committee recommend that the bill do not pass.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 87.

OFFICERS OF THE ARMY DETAILED TO EDUCATIONAL INSTITUTIONS.

OCTOBER 7, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. OUTHWAITE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 3571.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 3571) providing for increasing the number of officers of the Army to be detailed to colleges, have had the same under consideration, and submit the following report:

The bill provides for an increase of the number of officers to be detailed to educational institutions, for the purpose of instructing students in military tactics, to the number of 100. Under the present law the total number authorized is 85, of which 75 are from the Army and 10 from the Navy. The increase proposed is to be taken from the Army, which would make the total number from the Army 100. There has been such a large demand made on the Secretary of War during the past two years for the assignment of officers to educational institutions, which have all the requirements that the law contemplates, that a great many were refused for the sole reason that the number authorized by law had been exhausted, and therefore the demands could not be complied with. By the proposed increase, the Secretary of War will be enabled to detail officers to colleges which have applied and which deserve to have such an officer.

The Commanding General, in a communication addressed to the Secretary of War (which letter is appended and made a part of this report), sets forth the reasons why this legislation would be beneficial to the people generally, and, as the enactment of this measure would not incur any additional expense, your committee recommend the passage of the bill.

HEADQUARTERS OF THE ARMY,
Washington, D. C., October 2, 1893.

SIR: Referring to the accompanying communication from the Hon. Joseph H. Outhwaite, Chairman of the Committee on Military Affairs, House of Representatives, relative to the bill introduced by him providing for an increase of the number of officers of the Army to be detailed to educational institutions, I have the honor to remark that, in my judgment, the most important detached service which officers of the Army can render in time of peace is that in charge of the military departments of the principal institutions of learning throughout the country. By the instructions there given a very large number of the most intelligent young men of the country are qualified to give the elementary military instruction and discipline necessary to prepare volunteer troops for service in the field in time of war.

I think it would be wise, if practicable, to extend this help to a certain proportion of the great public schools of the country, where some military training might be given to boys who are not able to take a collegiate course and who are most likely to be found among the great mass of privates in the ranks in the event of war rather than among the commissioned officers. The extent to which the Army may justly and wisely be called upon to render this service to the general military education in the country is, in my judgment, limited only by the practicability of sparing officers from their ordinary military duties.

The demands upon the Army for detached service of all kinds are now very great, and yet I think they have not quite reached their limit. It may safely be left to the discretion of the President, under the information always on file in the War Department, to determine when that limit is reached. I think no harm would result by extending the limit of officers to be detailed for duty at educational institutions to one hundred, as proposed by Mr. Outhwaite.

Very respectfully,

J. M. SCHOFIELD,
Major-General Commanding.

The SECRETARY OF WAR.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 89.

POTOMAC STEAMBOAT COMPANY.

OCTOBER 9, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 966.]

The Committee on Claims, to whom was referred the bill (H. R. 966) for the relief of the Potomac Steamboat Company, have had the same under consideration and report as follows:

This claim has been fully investigated and favorably reported on by the Senate and House Committees on Claims during the Fiftieth and Fifty-first Congresses. At the last session of Congress the Senate Committee on Claims made the report hereto appended. Your committee adopt that report and recommend the passage of the accompanying bill.

[Senate Report No. 2309, Fifty-first Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 470) for the relief of the Potomac Steamboat Company, have examined the same and report as follows:

The history and leading facts of this case are set forth in the appended report of the House Committee on Claims during the first session of the Fiftieth Congress, to whom a similar bill was referred by the House of Representatives, and upon which said committee made a favorable report, which is hereby adopted:

[House report, Fiftieth Congress, first session.]

The Committee on Claims, to whom was referred the petition of the Potomac Steamboat Company to be reimbursed a certain sum of money paid by them to the Baker Salvage Company, under a decree of the Supreme Court of the United States, for services rendered by them in rescuing the steamer *Excelsior*, sunk by the United States steam tug *Fortune*, beg leave to report that the evidence submitted to them in support of the said petition shows the following facts:

First. On the afternoon of the 4th of December, 1882, the steamer *Excelsior*, belonging to the Potomac Steamboat Company, left her dock at Norfolk, steamed down the Elizabeth River and into Hampton Roads, heading the usual course to make a landing at Old Point wharf. As the *Excelsior* was heading the aforesaid course in Hampton Roads at or near 6 p. m., the United States steam tug *Fortune* came into collision with her. The *Fortune* struck the *Excelsior*, which is of wood, on the starboard bow, making a hole in her hull at least 8 by 10 feet; and it being apparent that the *Excelsior* must otherwise sink in deep water from the quantity she was making in her hull through the hole in her bow, she was promptly headed for the shore, going ashore on the south side of Hampton Bar at or about its middle point, where she sank full of water, with a hole extending from her hurricane deck far down under water, lying almost head onto the shore, in water ranging in depth from 67 feet at her bow and from 10 to 12 feet at her stern.

Second. That on December 5, 1882, a naval board was convened by order of Rear-Admiral Cooper, commanding United States naval force on North Atlantic station, to investigate the circumstances attending the said collision and to ascertain the injuries received, the probable amount of damages, etc.

Third. That it appears from the report made by the said naval board that the said collision was occasioned by the negligence of the officers in command of the United States naval tug *Fortune*.

Fourth. That in the act of Congress approved March 3, 1883, making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1884, the sum of $19,957.15 was appropriated to enable the Secretary of the Navy to pay the Potomac Steamboat Company the amount found to be due them by a board of naval officers appointed to ascertain the damage occasioned by the negligence of the officers in command of the United States naval tug *Fortune* in running down the said company's steamer *Excelsior* in Hampton Roads, Virginia, December 2, 1882.

Fifth. That subsequently to the passage of said act, to wit, on the 24th day of October, 1887, the Supreme Court of the United States rendered a decree affirming the decree of the circuit court of the United States for the eastern district of Virginia in a suit in admiralty for salvage brought by the Baker Salvage Company against the steamer *Excelsior*, by which it was ordered and decreed that the said Baker Salvage Company do recover the sum of $5,600, with interest from the 21st of February, 1884, until paid, at the rate of 6 per cent per annum, and the cost of suit.

Sixth. That the said Potomac Steamboat Company have paid to the said Baker Salvage Company the sum of $— in compromise of the said suit and $90 commissions of clerk of court, costs, etc., making altogether the sum of $5,390. In consideration of the foregoing facts your committee are of the opinion that the said Potomac Steamboat Company are entitled to be reimbursed the said sum of $5,390 so paid by them to the said Baker Salvage Company.

They therefore report the accompanying bill and recommend its passage.

In addition to the facts set forth in the foregoing House report, your committee would further state that the appropriation of $19,957.15, made by the appropriation bill of March 3, 1883, for the relief of the Potomac Steamboat Company, was not intended to cover any claim for salvage money, as the whole history of the case shows. A suit was then pending in the circuit court for the eastern district of Virginia between the Baker Salvage Company and the said steamboat company wherein in it was to be determined whether any salvage was due, and if so, what was its amount. The aforesaid appropriation, therefore, could only have been, and on its face was only intended to be, in payment of perfected claims which said steamboat company then had. When the fact that such salvage was due, and its amount, were ascertained by the decree of said circuit court, and its decree was affirmed, as it afterward was, by the Supreme Court of the United States, then surely it became one of the plainest grounds of claim against the Government, inasmuch as the raising of a vessel sunk by a collision was an absolutely necessary step toward saving the property from destruction.

Your committee therefore recommend the passage of the bill.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 90.

GEORGE H. PLANT.

OCTOBER 9, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOUD, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 967.]

The Committee on Claims, to whom was referred the bill (H. R. 967) for the relief of George H. Plant. submit the following report:

This claim was referred to the Court of Claims for investigation and report by the Senate Committee on Claims in accordance with the provisions of the act entitled "An act to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government," approved March 3, 1883. The Court of Claims on June 2, 1890, made findings of fact, a certified copy of which has been transmitted to the President of the Senate as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 5, 1890.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact filed by the Court of Claims June 2, 1890, in the aforesaid cause, which case was referred to this court by the Committee on Claims of the Senate of the United States under the act of March 3, 1883.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

PRESIDENT OF THE UNITED STATES SENATE.

[Court of Claims. Congressional case No. 32. George H. Plant v. The United States.]

At a Court of Claims held in the city of Washington on the 2d day of June, A. D. 1890, the court filed the following findings of fact, to wit:

FINDINGS OF FACT.

The claim or matter in the above-entitled case was transmitted to the court by the Senate Committee on Claims on the 27th day of February, 1884.

Messrs. Goode and Goode, esqs., appeared for claimant, and the Attorney-General, by Henry M. Foote, esq., his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case having been brought to a hearing on the 19th day of May, 1890, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts to be as follows:

I.

About sundown on May 30, 1874, a collision occurred on the Potomac River, nearly opposite Fort Washington, between the United States steamer *Gettysburg* and the *Lady of the Lake*, under the following circumstances:

The *Lady of the Lake* had been down the river with an excursion party from Washington, consisting of about 600 persons, and was on her return trip.

The *Gettysburg*, commanded by Lieutenant McRitchie, was going down.

When first sighted the steamers were about three-fourths of a mile apart. At that time the *Lady of the Lake* was on the Virginia side of the river and the *Gettysburg* on the Maryland side.

By the law of the road each steamer was required to keep to the right in passing, but the law also permitted them, by signal agreement, to keep to the left.

The officers of the *Lady of the Lake* preferred to hold their course on the Virginia side, because by so doing they avoided, to some extent, the rapid current of the ebbing tide. They also supposed the *Gettysburg* would prefer the Maryland side, because the channel there was deepest and the assisting current strongest.

Therefore, when the steamers were about half a mile apart, the pilot of the *Lady of the Lake* gave two blasts of her steam whistle, which was the proper signal to request that the steamers might pass by each keeping to the left. The pilot of the *Gettysburg* immediately responded by two blasts of the whistle, which was the proper signal of assent to the proposal. Each steamer then held her course for about a quarter of a mile. Then the *Gettysburg*, by order of Lieutenant McRitchie, gave one blast of her whistle, which is the proper signal for each vessel to keep to the right, and immediately ported her helm, thus directing her course to the Virginia side of the river. The *Lady of the Lake* immediately responded with two blasts of the whistle, thus indicating her wish to pass on the left, as already agreed, and held her course. A collision was imminent, and both steamers reversed their engines, but collision could not then be avoided.

The bow of the *Gettysburg* struck the *Lady of the Lake* on her starboard bow, crushing in the upper and lower decks. No persons were injured.

Both Lieutenant McRitchie and the claimant agree in their testimony that the signals were given and heard by the officers of each steamer, as above detailed.

The *Gettysburg*, by porting her helm and directing her course to the Virginia side of the river, without timely warning, caused the collision.

II.

The rule established by the board of supervising inspectors, under section 29 of the act of February 28, 1871 (16 Stat., 450), to be observed by steam vessels in passing each other on rivers, is as follows:

"RULE 1. When steamers are approaching each other 'head and head,' or nearly so, it shall be the duty of each steamer to pass to the right, or on the port side of the other; and the pilot of either steamer may be first in determining to pursue this course, and thereupon shall give, as a signal of his intention, one short and distinct blast of his steam whistle, which the pilot of the other steamer shall answer promptly by a similar blast of his steam whistle, and thereupon such steamers shall pass to the right, or on the port side of each other. But if the course of such steamers is so far on the starboard of each other as not to be considered by the pilots as meeting 'head and head,' or nearly so, or if the vessels are approaching each other in such a manner that passing to the right (as above directed) is deemed unsafe by the pilot of either vessel, the pilot so first deciding shall immediately give two short and distinct blasts of his steam whistle, which the pilot of the other steamer shall answer promptly by two similar blasts of his steam whistle, and they shall pass to the left, or on the starboard side of each other.

["NOTE.—In the night the steamers will be considered meeting 'head and head' so long as both the colored lights of each are in view of the other. In the day a similar position will also be considered 'head and head.'"]

III.

June 9, 1874, the Secretary of the Navy constituted, by the following order, a naval court of inquiry:

To Commander JOHN H. RUSSELL,
U. S. Navy, Rockville, Md.:

By virtue of the authority conferred by the "Act for the better government of the Navy of the United States," approved July 11, 1862, I hereby appoint Commander John H. Russell president, Commander Montgomery Sicard and Lieutenant-Commander Frederick Rodgers members, and First Lieutenant George C. Reid, of the Marine Corps, judge-advocate of a court of inquiry, which is ordered to convene at the navy-yard, Washington, D. C., on Thursday, the 11th day of June, 1874, for the purpose of investigating all the circumstances relating to the collision which took place on the Potomac River, near Fort Washington, on or about the 30th day of May, 1874, between the United States steamer *Gettysburg* and the steamboat *Lady of the Lake*. In performing this duty the court will study closely "the Rules of the Road" and act of Congress relating thereto, and state the cause or causes that brought about the collision, with its opinion as to where the blame, if any, should rest.

Given under my hand at the Navy Department of the United States this ninth day of June, in the year eighteen hundred and seventy-four.

GEORGE M. ROBESON,
Secretary of the Navy.

June 19, 1874, the court found as follows:

That both the United States steamer *Gettysburg* and the steamboat *Lady of the Lake* were subject to the act of Congress approved April 29, 1864 (page 158, Naval Laws), for preventing collisions on the water. and in addition to the above the court find that the *Lady of the Lake* was subject to certain rules laid down by the Board of Supervising Inspectors in pursuance of the act of Congress of February 28, 1871.

There is no conflict between these two sets of "rules," but the rules of the Board of Supervisors supplement the naval "Rules of the Road" by certain whistle blasts or signals to be used between vessels, subject to the direction of the Board of Supervising Inspectors.

As regards the facts connected with the collision, the weight of evidence in the opinion of the court establishes the point that the vessels, at the time of the exchange of their first whistle signals, must be considered as coming under article 13 of the "rules" for preventing collisions on the water (Naval Laws, page 161), and also under Rule 1 of the "Rules issued by the Board of Supervising Inspectors for the government of Pilots;" that is, they were meeting end on, or nearly so. In this position the law requires that the helms of both vessels be put to port, and inasmuch as this course was not pursued by the *Lady of the Lake* the court deem that vessel to have acted in violation of law, and find that her pilot committed an error of judgment in putting his helm to starboard.

At the same time, as the wording of the law (article 13), "end on or nearly end on," implies a certain margin for judgment on the part of pilots the court are of the opinion that the pilot of the *Lady of the Lake*, though technically in the wrong, can not in the circumstances be considered as being very censurable.

As the vessels are considered as coming within the scope of article 13 of the law for preventing collisions on the water the court find that the *Gettysburg* acted in violation of law in answering the *Lady of the Lake's* two whistles and in putting his helm to starboard, and that the fact of her pilot having done those acts renders her responsible for the collision.

The pilots of the two vessels are therefore considered by the court as having been principally to blame for the collision. Lieut. McRitchie was following the "rule of the road" in putting his helm a-port, as the weight of evidence shows that if both vessels had done so from the first signal the collision would in all probability have been avoided.

But when it became evident that the *Lady of the Lake* did not pursue the same course, and that a collision was very probable, he would, in the opinion of the court, have been justified in shifting his helm (in accordance with article 19, page 162, Rules of the Road—Naval Laws).

The evidence shows that, after a collision became probable, both vessels stopped and reversed their engines, in conformity with article 16, "Rules of the Road," page 161—Naval Laws.

JOHN H. RUSSELL,
Commander, U. S. Navy, President Naval Court of Inquiry.
GEORGE C. REID,
First Lieutenant, U. S. Marine Corps, Judge-Advocate.

The Treasury Department also authorized an investigation by the supervising inspectors of steam vessels, who made the following report:

OFFICE OF UNITED STATES LOCAL INSPECTORS OF STEAM VESSELS,
Baltimore, July 17, 1874.

JOHN HENSHAW, Esq.,
Supervising Inspector of Steam Vessels, Third District:

SIR: In compliance with your instructions we proceeded to Washington, D. C., to take the testimony of witnesses in the collision between the United States steamer *Gettysburg* and steamer *Lady of the Lake*, which occurred on the Potomac River, off Fort Washington, on the evening of the 30th of May, 1874, and, after having received said testimony, both on the part of the officers of the *Lady of the Lake*, together with a number of disinterested passengers of said steamer, we find that the pilot in charge of the *Lady of the Lake* complied with all the rules and regulations for the government of pilots applicable to said case, and is therefore exonerated from all blame in the premises.

(They report also their inability to get the officers of the *Gettysburg* to testify.)

JAMES D. LOWRY,
WILLIAM O. SAVILLE,
United States Local Inspectors of Steamers, Baltimore District

IV.

May 30, 1874, the claimant was the owner of the *Lady of the Lake*, except a small interest, valued at $2,500, which he had agreed to transfer to ——— Partridge, the captain of the boat. This interest had not been paid for and claimant arranged with Capt. Partridge for it and took it back.

V.

At the time of the collision the *Lady of the Lake* was engaged in the business of carrying freight and passengers between Washington and Norfolk and taking excursion parties up and down the river. It was the busy season of the year and her business was large and profitable.

The cost of repairing the boat amounted to $2,216.85. The loss in earnings while undergoing repairs amounted to $3,000.

After resuming her regular trips her earnings, in consequence of the interruption and loss of confidence in her safety, were much diminished. This loss can not be accurately calculated.

BY THE COURT.

Filed June 2, 1890.
A true copy.
Test, this 5th day of June, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

In view of the facts as found by the court and of the uniform practice of the Government to afford relief in similar cases, your committee report back the accompanying bill and recommend its passage, with an amendment striking out "six thousand seven hundred and sixteen dollars and eighty-five cents," in lines 6 and 7, and inserting "two thousand two hundred and sixteen dollars and eighty-five cents."

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 91.

QUALIFICATION OF VOTERS IN THE CHEROKEE OUTLET.

OCTOBER 10, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. Res. 65.]

The Committee on the Judiciary, to whom was referred the joint resolution (H. Res. 65) fixing the qualification to vote and hold office in the Cherokee Outlet, Oklahoma Territory, at the first municipal election, beg leave to report:

The said committee have fully considered said joint resolution and recommend that it be amended as follows:

Strike out all of said resolution beginning with the word "and" in line 4 and ending with the word "law" in line 7, and in line 9 that the word "twenty" be stricken out and the word "thirty" inserted in lieu thereof.

Your committee report the resolution back with the recommendation that said amendments be concurred in and that the joint resolution so amended do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 92.

UNITED STATES COURTS IN IDAHO AND WYOMING.

OCTOBER 10, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 2002.]

The Committee on the Judiciary having had under consideration House bill 2002, and having come to a favorable decision thereon, respectfully report the same to the House with the recommendation that it be passed.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 93.

AMENDMENT TO THE TIMBER-CULTURE LAWS.

OCTOBER 10, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. HARE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 1986.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1986) to amend section 6 of the act approved March 3, 1891, entitled "An act to repeal timber-culture laws, and for other purposes," have had the same under consideration, and recommend that it be passed.

The bill is identical with Senate bill 2564, reported favorably by the Committee on the Public Lands in the Fifty-second Congress, and we adopt the following explanation of its object from the report then made:

By act of March 2, 1889, the great Sioux Indian Reservation lying in South Dakota and Nebraska was opened to settlement under the provisions of the homestead law in force at that time, which required residence on the land for a period of five years in order to acquire title, unless the settler elected to pay the Government $1.25 per acre, in which case he could get title in six months.

The act of March 3, 1891, amended the original act so a residence of fourteen months is now required to gain title.

A provision of this same amendment made this act apply only to that portion of the reservation in South Dakota, while the old law applies to that portion in Nebraska, and as the law now stands the settlers who located on the south side of the State line can not acquire title short of five years' residence, while his neighbors just across the line may acquire title in fourteen months.

This bill only seeks to add to the existing proviso the words "and in the State of Nebraska," which will place all settlers on the reservation on a perfect equality under the law, regardless of State lines.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 94.

GRANT OF CERTAIN SWAMP LANDS TO ARIZONA.

OCTOBER 10, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SMITH, of Arizona, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 3627.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 3627) granting to Arizona certain lands for the use of Territorial prison, beg leave to report that the said bill has received the careful consideration of the committee and its passage is recommended.

At the junction of the Colorado and Gila rivers in Arizona and lying between said streams are fractional sections 12, 13, 14, and 15, 22, 23, 24, and 25 of unoccupied and unclaimed public lands. This land in its present condition is worthless for any purpose whatever on account of the frequent overflow of said rivers. The land can not be utilized without great expense in construction of levees to prevent the overflow of said streams.

The land lies directly adjoining the Territorial prison grounds in the village of Yuma and can be reclaimed by prison labor and made valuable as a prison farm and thus relieve the people of the Territory of some of the burden of taxation under which they labor. Arizona has never received 1 acre of land or $1 of aid from the Government in the construction of any public building. The land granted in the bill is now worthless, and will in all probability forever remain so. It can be made valuable and productive under the provisions of the bill.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 95.

MRS. FANNIE M. NORMAN.

OCTOBER 11, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SNODGRASS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 3318.]

The Committee on Pensions, to whom was referred the bill (H. R. 3318) granting a pension to Mrs. Fannie M. Norman, have had the same under consideration and respectfully submit the following report:

The claimant's late husband, E. A. C. Norman, deceased, was a first lieutenant in Capt. John W. Jetton's company Tennessee Volunteers, in the Florida Indian war, and served (as shown by the records of the Second Auditor's Office, Treasury Department) from May 19 to June 16, 1836.

He was again enrolled June 21, 1836, as a second lieutenant in Capt. Burrell G. White's company of Tennessee Mounted Militia in said war, but in view of the fact that the organization was not called into active service the records of the United States do not show the last service, although the company maintained its organization for twelve months and was in readiness to report for duty at any time. The facts relative to the service last named are certified to by the adjutant-general of the State of Tennessee from the records of his office, and a copy of the muster roll is on file with the papers.

Mrs. Norman made application to the Pension Bureau for a pension under the Indian war act of July 27, 1892, and full proof of her identity as the legal widow of the soldier was supplied, but as his first service covered a period of only twenty-nine days (one day short of the time required by the said act to give title) her claim was rejected. The second service was not recognized by the Pension Office, presumably because it was not a matter of record in the Government Departments.

Your committee, after a full and careful consideration of all the facts, believe this bill to be meritorious, and its passage is recommended with the following amendments:

Strike out the word "Mexican," in line 8, and insert in lieu thereof the words "Florida Indian;" also strike out the word "fifteen," in line 9, and substitute therefor the word "eight," so as to allow the same rate of pension as is allowed by general laws to the widows of Indian war veterans.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 96.

SPEED TRIALS AND PREMIUMS PAID ON NAVAL VESSELS.

OCTOBER 11, 1893.—Ordered to be printed.

Mr. CUMMINGS, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany Mis. Doc.]

The Committee on Naval Affairs, to whom was referred the accompanying resolution of October 4, 1893, calling upon the Secretary of the Navy for certain information in relation to the speed trials and premiums paid thereon of naval vessels built under contract, having considered the same, beg leave to report it back to the House with a recommendation that said resolution do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 97.

PROTECTION OF PERSONS FURNISHING MATERIAL AND LABOR FOR THE CONSTRUCTION OF PUBLIC WORKS.

OCTOBER 11, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 86.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 86) for the protection of persons furnishing material and labor for the construction of public works, beg leave to report:

Your committee has fully considered the above bill, and find that there is no law now in existence for the protection of mechanics and material-men in this class of cases, as it is contrary to allow mechanics' or material-men's liens on public buildings or public works, and in many cases person or persons entering into contracts with the United States for the building of public buildings are wholly insolvent at the time or at the completion of such work, and thereby persons furnishing material or labor are without remedy.

In all such cases the United States requires the usual penal bond from the contractor or contractors of public buildings or works with good and sufficient security for the protection of the Government, and it seems to the committee that it is nothing more than just that the persons furnishing material or labor for the construction of such work should also be protected in the premises, and that there should be an additional obligation in all such bonds to the effect that the persons furnishing material and labor for the construction of public building or work should have the right to bring suit on said bond as provided in the bill herein stated, and that the same should become a law.

Your committee therefore report the bill back with a recommendation that the said bill do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 98.

TRANSFER OF LIFE-SAVING STATION FROM MORRIS TO SULLIVANS ISLAND, NEAR CHARLESTON, S. C.

OCTOBER 11, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BRAWLEY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 9.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 9) to transfer the Morris Island life-saving station, near Charleston, S. C., to Sullivans Island, report the same back to the House without amendment and with the recommendation that the bill do pass.

The transfer proposed in the bill is, in the judgment of the committee, not merely desirable, but absolutely necessary. The letter of Hon. S. I. Kimball, general superintendent of Life-Saving Service, dated September 19, 1893, and addressed to the Secretary of the Treasury, which is made a part of this report, indicates this necessity in detail.

The letter of the Acting Secretary of the Treasury, dated September 19, 1893, and addressed to this committee, which is made a part of this report, indicates his concurrence in the views of Mr. Kimball.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., September 19, 1893.

SIR: I have the honor to acknowledge the receipt of the communication of the 13th instant, referring to me a copy of bill H. R. 9, entitled "A bill to transfer the Morris Island life-saving station, near Charleston, S. C., to Sullivans Island," and requesting information as to the cost of the proposed change and suggestions touching the merits of the bill.

In reply I would respectfully state that the matter was referred to the general superintendent of the Life-Saving Service for his consideration, and I transmit herewith his report with my concurrence.

Respectfully yours,

C. S. HAMLIN,
Acting Secretary.

Hon. GEO. D. WISE,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

TREASURY DEPARTMENT,
OFFICE OF THE GENERAL SUPERINTENDENT LIFE-SAVING SERVICE,
Washington, D. C., September 19, 1893

SIR: I have the honor to acknowledge the reference of bill H. R. 9, "to transfer the Morris Island Life-Saving Station, near Charleston, S. C., to Sullivans Island," forwarded by the Committee on Interstate and Foreign Commerce, House of Repre-

sentatives, for information as to the cost of the proposed change, and such suggestions as may seem proper touching the merits of the bill and the propriety of its passage.

The station referred to was built in the early part of 1885, and its location at that time was considered the best that could be selected. Vessels bound into and out of Charleston harbor then had to pass through the main channel (see inclosed chart) and were much more liable to strand or meet with accident in the neighborhood of Morris Island than near any other place where a station could be located. Recent harbor improvements, however, have virtually obliterated this passage and the swash channel (see chart) has been dredged out and buoyed and become the great thoroughfare for the commerce of the port. This renders Morris Island almost valueless as a location for the life-saving station and makes its transfer to Sullivans Island a necessity. I think this will be apparent upon a mere examination of the chart.

Moreover, in the fall and winter of 1891 an epidemic of malarial fever attacked Morris Island which prostrated every member of the station crew, save the keeper (who does not perform patrol duty), in consequence of which the patrol of the beach, a requisite of vital importance, had to be abandoned. The locality still continues to be unhealthy. A sanitary examination of the premises has been made by the Marine Hospital Service, resulting in a report that little can be done to improve the condition of the place except by a system of drainage which would be impracticable on account of the expense it would involve.

In reference to the inquiry of the committee as to the cost of the change proposed I would say that some inquiry has been made as to the expense a removal of the present building to Sullivans Island would involve, but no such careful examination has been had as would enable me to give an estimate in detail. The keeper of the station, who is a very intelligent man, reports as follows: "Crouch Brothers, who have done considerable work for the U. S. Engineer Department, and are prominent contractors for marine work and wharf building, are of the opinion that the removal of the old station would cost more than a new one. I am also of that opinion and would recommend the building of a new one." The former civil engineer of this Service, upon a casual view of the situation, has also expressed a like opinion. To erect suitable buildings for a new station at Sullivans Island would probably require between $5,000 and $6,000. In this connection I would mention that the village of Moultrieville has already donated to the Government very desirable premises for the site of a new station.

Respectfully yours,

S. I. KIMBALL,
General Superintendent.

The SECRETARY OF THE TREASURY.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 99.

W. J. TAPP & CO.

OCTOBER 11, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 529.]

The Committee on Claims, to whom was referred the bill (H. R. 529) for the relief of W. J. Tapp & Co., submit the following report:

A bill similar to this was favorably reported to the House by the Committee on Claims of the Fiftieth, Fifty-first, and Fifty-second Congresses, and is now favorably reported by the committee with the recommendation that it do pass.

The report of the committee of the Fiftieth Congress, which was adopted by the committee of the Fifty-first Congress, sets out the facts as follows:

In May, 1876, W. J. Tapp & Co., of Louisville, in the State of Kentucky, manufacturers of goods from jute fiber, imported certain machinery for their business, such machinery not being then made in the United States, to be used by them exclusively in the manufacture of that fiber, and which was adapted to and could be used for no other purpose. By the provisions of section 7 of the act of February 8, 1875, such machinery was entitled for two years thereafter to entry free from duty.

On the 12th of November, 1875, the Secretary of the Treasury decided that no machinery was exclusively adapted to such manufacture.

When the machinery of Tapp & Co. arrived at the port of entry they claimed it was entitled to be admitted free under the law, but the claim was denied, and the duties and charges, amounting to $240.10, gold, were paid by them under protest. Other importers of similar machinery pursued the same course.

The Secretary of the Treasury subsequently, on the 23d of March, 1877, reversed his former decision and admitted duty free similar machinery imported in October, November, and December, 1875, by Buchanan & Lyall, of New York.

Thereafter Tapp & Co. applied to the Department for a rebate of the duties they had paid, and were refused on the ground that they did not appeal from the original decision of the appraiser of customs declaring their machinery dutiable. The law provided for such appeal, but having paid the duties under protest they deemed it unnecessary, and no doubt supposed it would be unavailing to appeal to a tribunal which had then recently, as to other parties, decided the same question adversely to their claim.

In view of the fact that the Supreme Court has decided that "a payment made to a public officer in discharge of a fee or tax illegally exacted is not such a voluntary payment as will preclude the party from recovering it back" (111 U. S., 22), your committee are of the opinion that the parties are entitled to the relief asked for, and recommend the passage of the accompanying bill.

JOSEPH HAXTHAUSEN.

OCTOBER 11, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUNN, from the Committee on Claims, submitted the following

REPORT:

[To accompany H. R. 526.]

The Committee on Claims, to whom was referred the bill (H. R. 526) for the relief of Joseph Haxthausen, having carefully considered the same, report it back with a recommendation that it do pass.

The object of this bill is to authorize the refunding or payment to Joseph Haxthausen $110, special taxes overpaid by him in the year 1873. The facts are briefly stated in the letter of the collector of the fifth Kentucky district, which letter is hereto annexed, marked Exhibit A. The reason the amount claimed was not refunded is given in the letter of the Commissioner of Internal Revenue, hereto annexed, marked Exhibit B.

EXHIBIT A.

UNITED STATES INTERNAL-REVENUE
COLLECTOR'S OFFICE, FIFTH DISTRICT, KENTUCKY,
Louisville, March 4, 1880.

SIR: Upon examination of the records of this office, I find that on 10th June, 1872, the firm of Ropke & Haxthausen, of this city (said firm composed of John H. Ropke and Joseph Haxthausen), paid into this office the following special taxes:

Rectifiers of spirits	$200
Wholesale liquor dealers	100
Retail liquor dealers	25
Dealer in manufactured tobacco	5
Total commencing May 1, 1872, and ending April 30, 1873	330

John H. Ropke, one of the firm, died about the end of 1872, and Joseph Haxthausen, under the then rulings of the Department, as surviving partner continuing the same business at the same place, was required to pay, *and did pay*, into this office the following special taxes for the period commencing 1st January, 1873, and ending 30th April, 1873, four months, viz:

Rectifiers of spirits	$66.67
Wholesale liquor dealers	33.23
Retail liquor dealer	8.33
Dealer in manufactured tobacco	1.67
Total for January, February, March, and April, 1873	110.00

The above sum, $110, being for one-third of the same year paid by the firm of Ropke & Haxthausen. Under a late decision of the United States Supreme Court this last sum, $110, should be refunded to Mr. Haxthausen, the surviving partner. A refund-

ing claim for this amount, as you will recollect, was prepared for you at this office and forwarded in September last, but rejected, as the letter of the Commissioner shows, being barred by limitation. It was made out, as you know, as soon as presented to this office, but it seems you had delayed too long. I hope some general law will be passed extending the time under which you and several others I know of may get relief and your claim allowed.

Respectfully,

S. F. BUCKNER, *Collector.*

Mr. JOSEPH HAXTHAUSEN,
93 West Main street, Louisville, Ky.

EXHIBIT B.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, February 23, 1884.

SIR: Your letter of the 20th instant has been received, in which you ask, on behalf of the Committee on Ways and Means, to be informed whether certain special taxes, amounting to $110, paid by Joseph Haxthausen upon the dissolution of the firm of Ropke & Haxthausen, as surviving partner of said firm, for the period commencing January 1, 1873, have ever been refunded.

In reply I have the honor to state that a claim for refunding $110, paid as above stated, was filed in this office by Mr. Haxthausen in September, 1879, and was rejected, not having been presented within three years from the date of the purchase of the stamps.

There is no record of any allowance by this office to Mr. Haxthausen on account of the special taxes above mentioned.

Respectfully,

WALTER EVANS, *Commissioner.*

Hon. ALBERT S. WILLIS,
House of Representatives.

O

53D CONGRESS, 1st Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 101.

INFORMATION FROM DEPARTMENT OF THE INTERIOR.

OCTOBER 11, 1893.—Ordered to be printed.

Mr. MARTIN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany resolution of September 9, 1893.]

The Committee on Invalid Pensions have considered the resolution of September 9, 1893, requesting information from the Department of the Interior relative to the administration of the act of June 27, 1890, and inasmuch as the information asked for is such as can be readily furnished by the Pension Bureau, and such as may prove of value to the members of the House and to the public, your committee recommend that the resolution be adopted, after amendment by substituting the fifth section in place of the fourth, said fourth section being eliminated for the reason that the purpose thereof has been met by a resolution heretofore reported by this committee and adopted by the House.

This report presents the unanimous action of the committee.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 102.

HEARINGS BEFORE THE WAYS AND MEANS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, FIFTY-THIRD CONGRESS.

OCTOBER 12, 1893.—Ordered to be printed.

Mr. RICHARDSON, of Tennessee, from the Committee on Printing, submitted the following

REPORT:

[To accompany concurrent resolution.]

The Committee on Printing have considered the House concurrent resolution to print 2,000 copies of the hearings before the Committee on Ways and Means of the House of Representatives, Fifty-third Congress, and report same with recommendation that it do pass.

The estimated cost of same is $1,250.

It is estimated that the hearings will make about 1,200 pages.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 103.

ELIZABETH A. MOORE ET AL.

OCTOBER 12, 1893.—Laid on the table and ordered to be printed.

Mr. HUTCHESON, from the Committee on Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on Claims, to whom was referred the petition of Elizabeth A. Moore *et al.*, beg leave to recommend that the relief sought for in said petition be refused, for the reasons following, to wit:

(1) The claim is antiquated and barred by the statute of limitations.

(2) The Lopez conspiracy, or whatever it was, occurred more than thirty-five years ago, and any claim growing out of it ought to be bottomed on such clear proofs that there could be no question about it.

(3) Nobody can ascertain, at this late date, whether the district attorney was ever compensated or not, incidentally or otherwise.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 104.

TIME FOR HOLDING FEDERAL COURTS IN NEBRASKA.

OCTOBER 13, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 108.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 108) to fix times and places for holding Federal courts in the State and district of Nebraska, report the same to the House with the following amendment:

On page 1, in line 10, strike out the words "in each year," and insert "and the first Monday in June in each year," and recommend that the bill as amended be passed.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 105.

SPECIAL JUDGE IN THE FEDERAL COURT OF INDIAN TERRITORY.

OCTOBER 13, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 140.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 140) to provide for a special judge in the Federal court of the Indian Territory, report the same to the House with the recommendation that it be passed.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 106.

STEAM REVENUE CUTTER FOR THE NEW ENGLAND COAST.

OCTOBER 13, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3421.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 3421) providing for the construction of a steam revenue cutter for the New England coast, report the same back with the recommendation that the bill do pass.

A revenue cutter is needed to guard the revenue on the coast of New England between Portsmouth, N. H., and Gay Head, Mass., including Massachusetts Bay and Nantucket Shoals, and it should be one of the first class. The revenue steamer *Gallatin*, which did duty there, was wrecked during a blinding snowstorm on January 6, 1892. It is manifest that another revenue steamer should supply her place. It is necessary to build one for this purpose, and the sum appropriated by the bill is not too great for a proper construction.

Hon. C. S. Hamlin, Acting Secretary of the Treasury, in a letter of September 27, 1893, which is made a part of this report, urges the passage of this bill.

TREASURY DEPARTMENT, *September 27, 1893.*

SIR: I have respectfully to acknowledge the receipt of a communication, dated the 23d instant, from the Committee on Interstate and Foreign Commerce, transmitting for the views of this Department H. R. bill 3421, providing for the construction of a steam revenue cutter of the first class for service on the New England coast, and appropriating therefor the sum of $175,000.

In reply, I have the honor to state that the vessel provided for in the bill is needed for service on the coast of New England between Portsmouth, N. H., and Gay Head, Mass., including Massachusetts Bay and Nantucket Shoals, and to take the place of the revenue steamer *Gallatin*, wrecked January 6, 1892, on a sunken ledge off Manchester, Mass., during a blinding snowstorm.

In my opinion the sum named will construct a vessel of the class required for this duty, and I earnestly recommend that the bill receive favorable consideration. The paper is returned.

Respectfully yours,

C. S. HAMLIN,
Acting Secretary.

Hon. GEORGE D. WISE, M. C.,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 107.

AMENDMENT TO SECTION 2324, REVISED STATUES.

OCTOBER 13, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. WEADOCK, from the Committee on Mines and Mining, submitted the following.

REPORT:

[To accompany H. R. 3545.]

The Committee on Mines and Mining, to whom was referred the bill (H. R. 3545) to amend certain portions of section 2324, Revised Statutes of the United States, having had the same under consideration, respectfully report the same back to the House with amendments, have authorized me to submit this report, and recommend that the bill when so amended do pass.

The object of the bill is to allow miners, who have located claims, to have the requirement of $100 worth of labor on each claim in each year suspended for the year 1893 as to those claimants who, in good faith, intend to perfect their claims to the respective locations and who file due notice thereof.

The amendment is made necessary by the great depression in the mining districts during the current year.

Amendments proposed by committee: Line 9, page 1, strike out the words "until January first" and insert the words "for the year." Page 1, line 10, strike out the word "six" and insert the words "three so." Page 1, lines 10 and 11, strike out the words "or may hereafter be." Pages 1 and 2, lines 14, 15, and 16, strike the words "eighteen hundred and ninety-four" down to and including the words "ninety-six." Page 2, line 17, after the word "location" insert the words "in order." Page 2, lines 18 and 19, strike out the word "benefit" and insert the word "benefits," and strike out the words "after the year eighteen hundred and ninety-three." After the word "filed," in line 20, insert the words "on or before December thirty-one, eighteen hundred and ninety-three." Strike out all after the word "claim," in line 21, down to the end of the bill, and insert the words "This act shall take effect from and after its passage."

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 108.

AMENDMENT TO ACT RELATING TO ADMISSION OF ARTICLES INTENDED FOR THE WORLD'S COLUMBIAN EXPOSITION.

OCTOBER 13, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BYNUM, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. Res. 22.]

The Committee on Ways and Means, to which was referred the resolution (H. Res. 22) entitled "A joint resolution to amend the act approved April 25, 1890, relating to the admission of articles intended for the World's Columbian Exposition," respectfully report the same to the House and recommend that the same be amended as follows:

Strike out all after the words "State of Illinois" in line 19 of section 3, and instead thereof insert the following:

The rates of duties shall be reduced fifty per centum from the rates now fixed by law, when any of such goods, wares, or merchandise are entered for consumption, and upon payment of said fifty per centum said goods, wares, and merchandise shall be released from bond in the same manner as if the full rates of duties now provided by law had been paid thereon.

The effect and purpose of said resolution is to enable foreign exhibitors at the Columbian Exposition to dispose of their exhibits upon payment of one-half of the duties now provided by law.

In view of the expense incurred by these exhibitors and the expensive character of the exhibits, and that but few of the same are likely to be sold in this country if the full rates of duties now provided by law are demanded, the committee is of the opinion that the Government will derive a substantial benefit by making the concession asked for.

A similar concession was granted to the foreign exhibitors of the Centennial Exposition at Philadelphia in 1876.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 109.

TIME FOR HOLDING TERMS OF UNITED STATES COURTS IN SOUTH DAKOTA.

OCTOBER 13, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GOODNIGHT, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 2799.]

The Committee on the Judiciary would respectfully report that they have had under consideration the bill (H. R. 2799) entitled "A bill to provide for the time and place of holding the terms of the United States circuit and district courts in the State of South Dakota," and recommend to the House that it do pass.

The committee finds that the State of South Dakota constitutes one judicial district and has heretofore comprised three divisions, holding terms of court at Sioux Falls, Pierre, and Deadwood.

This bill provides for a fourth division, and for the holding of court at the city of Aberdeen, in said division.

The four divisions as provided for in this bill will be large in size, and the establishment of the fourth division will be a great convenience to litigants, witnesses, and attorneys in saving long and expensive travel, and will likewise be a great convenience. It will also, as is believed by the committee, save considerable expense to the Government in mileage now paid to witnesses and jurors, and facilitate trials.

The committee unanimously favor the bill.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 110.

AMENDMENT TO SECTION 3477, REVISED STATUTES.

OCTOBER 13, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. WOLVERTON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 1996.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1996) to amend section 3477 of the Revised Statutes of the United States, submit the following report:

Section 3477 of the Revised Statutes of the United States provides that the transfers and assignments of any claim against the United States shall be null and void unless signed in the presence of at least two attesting witnesses, and further requires that such transfers shall be acknowledged. It has been claimed that certificates issued by marshals for fees of the witnesses and jurors come within the provisions of this section. A similar bill to this was introduced in the Fifty-first Congress, referred to the Committee on the Judiciary, reported favorably, and passed the House. The Attorney-General of the United States then recommended the passage of this bill, saying "I think it would facilitate the administration of business."

The committee recommend the passage of the bill.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 111.

AMENDMENT TO SECTIONS 828, 833, 847, AND 1014, REVISED STATUTES.

OCTOBER 13, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. WOLVERTON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3963.]

The Committee on the Judiciary, to which House bills 341, 342, 343, and 344 were referred, respectfully make the following report:

These bills are the same as H. R. 9610, 9611, 9612, and 9613 in the Fifty-second Congress, and which were referred to the Judiciary Committee, reported upon favorably in reports Nos. 1967, 1968, 1969, and 1970 made by said committee to accompany said bills. These bills passed the House without objection, but were not reached in the Senate. The bills grow out of a report of the Judiciary Committee under a resolution of the House authorizing the committee to inquire into certain alleged abuses of judicial process.

As these bills now before the committee are the same in substance as those before the same committee of the Fifty-second Congress, and pertain to the same subject, the committee recommends the consolidation of the said four bills into one, and herewith report a bill in four sections covering the same as said four bills.

As to the first section thereof, amending section 828 of the Revised Statutes of the United States, the committee report:

There is no fee bill regulating the fees to be charged by clerks of the United States circuit and district courts for the naturalization of aliens, and different fees are charged by different courts. As they should be part of emoluments to be returned by the clerks of these courts under section 833 of the Revised Statutes it is important that they should be uniform, and the committee therefore recommend the passage of the above bill to establish a uniform fee for naturalization of aliens by United States circuit and district courts. This is necessary to enable the Department of Justice and Comptroller of the Treasury to compel clerks to return such fees as emoluments.

As to the second section, amending section 833 of the Revised Statutes of the United States:

Section 833 of the Revised Statutes provides for semiannual returns of fees of district attorneys, marshals, and clerks. The language of this section plainly requires that any fee earned or made by one of these officers by virtue of his office should be returned as an emolument. It is as follows:

A written return for the half year, ending on said days, respectively, of all fees and emoluments of his office of every name and character.

Although this language would seem to be broad enough to cover fees for naturalization of aliens, yet the clerks of the circuit and district courts in many States, and especially in the State of Massachusetts, do not include these fees in their emolument returns.

The committee recommend the passage of the above bill to avoid any dispute on this subject and for the purpose of requiring all naturalization fees to be returned in the emolument accounts or returns of the clerks of the circuit and district courts. Fees for naturalization in some of the United States courts would yield a considerable revenue to the Government. In Boston as many as 4,000 persons have been naturalized in one year, the fees from which should amount to $8,000. The Government realizes nothing from this source.

The Attorney-General approves of the passage of the bill, and it also has the approval of the Comptroller of the Treasury.

As to the third section, amending section 847 of the Revised Statutes of the United States, the above was presented by the Committee on the Judiciary along with the report of the subcommittee appointed under resolution of February 1, 1892, authorizing an investigation of officials connected with the courts of the United States in certain localities and the abuse of judicial process, by which the committee was authorized to report by bill or otherwise.

Disputes have arisen between the First Comptroller of the Treasury and the Department of Justice and United States commissioners, growing out of the indefiniteness of the fee bill for United States commissioners, and in most cases the bills rendered by United States commissioners for services are twice as large as the First Comptroller thinks justifiable under the act as it now stands.

In one case the fees of a commissioner from January 1, 1884, to January 1, 1892, as claimed by the commissioner, amounted to the sum of $41,801.38, of which sum the Comptroller allowed $21,864.73. This same commissioner made a return from January 1 to June 30, 1887, claiming $2,238.35. The Comptroller found due him $717.10, a difference of $1,521.25. The First Comptroller and the examiner from the Department of Justice unite in the opinion that these disputes arise out of the indefiniteness of the fee bill relating to commissioners, section 847 of the Revised Statutes of the United States. By the provisions of this bill the fees of commissioners are limited in cases where a warrant is issued, the case discontinued, no arrest made, to the sum of $2; and in cases where a hearing is had, the defendant admitted to bail, or bound over to court, $5, and no more. This to include the returns to court and all services connected with the preliminary hearing. Under the section as it now stands the commissioner may charge $5 per day for the time necessarily employed, and the fees of the commissioner are often largely increased by adjournments from day to day, which are unnecessary, and not only increases the fees of the commissioner, but costs of witnesses attending the different hearings and recognizances of sureties and witnesses.

The committee, therefore, recommend the passage of this amendment to correct these abuses.

As to the fourth section, amending section 1014 of the Revised Statutes of the United States.

This is the same as a bill presented by the Committee on the Judiciary along with the report of the subcommittee, appointed under resolution of February 1, 1892, authorizing an investigation of officials connected with the courts of the United States in certain localities,

and the abuse of judicial process, by which the committee was authorized to report by bill or otherwise.

Section 1014 of the Revised Statutes provides that the person making the arrest may take the defendant before certain officers therein named for the purpose of having the defendant admitted to bail or bound over to answer at the court having jurisdiction of the case.

Under section 627 of the Revised Statutes commissioners are appointed in the different States by the circuit courts for the evident purpose of enabling officers to take the defendants arrested and charged with offenses against the United States to a commissioner or other officer near the place of arrest for the purpose of having him committed or admitted to bail.

In some of the districts in different States the practice prevails of arresting defendants in different parts of the State and taking them to a certain commissioner having his office a long distance from the place of arrest and ignoring commissioners residing in the neighborhood where the arrest is made for the purpose of making fees against the Government. This practice has resulted not only in making mileage fees against the Government but in great hardship to defendants, by taking them from their own neighborhood into a distant part of the State, where they are deprived of an opportunity of procuring bail and put to a great expense and pisadvantage. The Attorney-General has tried to break up this practice, and in some districts rule, of court have been made requiring marshals and others charged with the execution of warrants to take the defendants to the nearest officer qualified to give a hearing and admit the defendant to bail, but these rules are to a great extent ignored. To break up this practice and require the marshal or other officer executing a warrant to take the defendant before the nearest officer qualified to give the defendant a hearing or take bail for his appearance at court, the passage of the above amendment is recommended by the committee, amending section 1014 of the Revised Statutes in this respect.

The amendment had the approval of the Attorney-General and Comptroller of the Treasury.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 112.

JOHN A. LYNCH.

OCTOBER 17, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCLAURIN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 2221.]

The Committee on War Claims, to whom was referred the bill (H. R. 2221) for the relief of John A. Lynch, submit the following report:

This claim was presented to the Fifty-first Congress, and a report was made in regard to it by the Committee on War Claims on April 21 1890. As the examination by your committee has led them substantially to the same results with those arrived at by the committee of 1890, they do not think it necessary to recapitulate the facts, but refer to that report, and herewith attach a copy for information.

Your committee recommend the passage of the bill.

[House Report No. 1606, Fifty-first Congress, first session.]

The Committee on War Claims, to whom was referred the bill (H. R. 9199) for the relief of John A. Lynch, have considered the same, and report as follows:

The claim covered by this bill was referred to the Court of Claims by resolution of the Senate for investigation and report, under the provisions of the acts of March 3, 1883, and March 3, 1887.

Said court has reported its findings of fact to Congress, showing that the claimant was entitled to the sum of $2,621.49 for his services, upon which he had been paid the sum of $125, leaving due him the sum of $2,496.49.

The facts are all clearly set forth in the findings of the court, and the same are approved by your committee.

Your committee, therefore, recommend the passage of the bill, with an amendment by striking out the words "six hundred and twenty-one," in the seventh line, and inserting in the place thereof the words "four hundred and ninety-six," and ask that Senate Mis. Doc. No. 127 be printed as a part of the report.

[Senate Mis. Doc. No. 127, Fifty-first Congress, first session.]

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, April 10, 1890.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of the Court of Claims filed April 7, 1890, in the aforesaid cause, which case was referred to this court by the Committee on Military Affairs of the Senate of the United States, under the act of March 3, 1883.

I am, very respectfully yours, etc.,

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

The PRESIDENT OF THE SENATE.

[Court of Claims. Congressional case No. 4664. John A. Lynch *vs.* The United States.]

At a Court of Claims held in the city of Washington on the 7th day of April, A. D. 1890, the court filed the following statement of case and findings of fact, to wit:

STATEMENT OF CASE.

The claim in the above-entitled case was transmitted to the court by the Committee on Military Affairs, United States Senate, on the 8th day of June, 1888. Luther H. Pike, esq., appeared for claimant, and the Attorney-General, by Assistant Attorney-General John B. Cotton, his assistant, and under his direction, appeared for the defense and protection of the interests of the United States.

The case was brought to a hearing on its merits on the 21st day of January, 1890.

I.

At the outbreak of the rebellion, in the year A. D. 1861, the claimant, John A. Lynch, was a citizen of the United States, a resident of the city of Cincinnati, in the State of Ohio, and by profession a lawyer.

In 1861 John C. Frémont, a major-general in the Army of the United States, was assigned to the command of the Department of the West, with headquarters at St. Louis, in the State of Missouri, and was clothed with extraordinary power and authority for recruiting, organizing, and equipping troops for his command in and outside the limits of his department, and for selecting and appointing, and directing the selection and appointment, of such officers and agents as he might deem necessary to assist him in the due execution of the powers he was so clothed with.

II.

General Frémont appointed Richard M. Corwine an officer under him, to wit, judge-advocate with the rank of major, and sent him to Cincinnati, in the State of Ohio, with directions and authority to there recruit, organize, and equip troops for his command, and to arrange their transportation to his department.

The said R. M. Corwine, as part of his arrangements for recruiting, organizing, and equipping troops for and transporting them to General Frémont's command, induced the claimant to assist him therein, and appointed claimant nominally to the rank of captain, assistant quartermaster, with assurance that upon such appointment he would be duly commissioned the same in the Army of the United States.

III.

The claimant, relying upon this assurance and acting under that appointment from the said Corwine, gave his entire time for a period of eight months in the years A. D. 1861 and 1862 in assisting said Corwine. From the latter part of July, 1861, until on or about the 6th of September of that year he acted both as assistant quartermaster and commissary of subsistence, but from the 6th of September, 1861, to on or about the 31st day of March, A. D. 1862, he acted only as assistant quartermaster, and all the services he so rendered were ardous and valuable to the United States.

The claimant has never been paid anything for the services he so rendered or on account of the expenses he incurred necessarily whilst rendering them and paid out of his own means, such expenses being for rooms, light, and fuel, and attendance thereon, and for clerical assistance, except a sum of $125, and for transportation.

IV.

The claimant was on the 26th of November, A. D. 1862, commissioned regularly a captain and assistant quartermaster in the United States Army, but was not given rank to cover the service he had rendered antecedently. As such regularly commissioned officer he served faithfully and efficiently until he was discharged honorably after the suppression of the rebellion, and his accounts, found correct, have been closed in the Treasury Department.

V.

The claimant, by reason of being in active service in the field, was ignorant of and therefore unable to avail himself of the benefit intended for others and himself who had assisted General Frémont, by the act of Congress approved March 25, 1862, and by the acts amendatory thereof and supplementary thereto. He was ignorant of the

existence of the commission at St. Louis, in the State of Missouri, which, in pursuance of said acts of Congress was created under and by General Orders of the War Department No. 64, of 1863, and also of the rules promulgated by the General Orders of the War Department No. 120, of March 24, 1864, for the payment of claims for such services presented to said commission, and, being so ignorant, he presented no claim to said commission.

VI.

By law and the Army Regulations of 1861, paragraphs 963 and 974, and the Revised Army Regulations of the same year, paragraphs 1068 and 1081, in force from the 31st of July, A. D. 1861, to the 1st day of April, A. D. 1862, had claimant been a regularly commissioned captain, assistant quartermaster in the United States Army, and so stationed and rendering said services at Cincinnati, in the State of Ohio, during said period of time, his army allowances and commutations would have been, as certified to the court by the War Department—each item aggregated—as follows: For pay proper (eight months), $560; servant's pay, $103.83; servant's clothing, $20; subsistence, $364.50; forage for three horses, if in actual service, $192; quarters, $192; quarter's fuel, $119.16; office, $240; office fuel, $30, and by authority for payment of clerk hire contained in the general appropriation acts for the support of the Army he would have had for one clerk, at $100 per month, $800; making a total of $2,621.49. But the claimant by his petition in this court has sought to recover only $1,262.96 for the same service.

VII.

The claimant during the eight months he so rendered the services unpaid for did not actually own and keep in service three horses, but in lieu thereof hired horses and vehicles for his transportation which was made actually necessary by the distances apart of the different bodies of troops he had to give attention to and he had constantly to traverse; but the amount of such expenditures has not been shown to the satisfaction of the court.

VIII.

The claimant received $125 on account of clerk hire during said period of eight months' service, through said R. M. Corwine.

IX.

The claimant was loyal to the Government and cause of the United States throughout the war of the rebellion.

BY THE COURT.

Filed April 7, 1890.
A true copy.
Test, this 10th day of April, A. D. 1890.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk, Court of Claims.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 113.

WILLIAM P. WHITE.

OCTOBER 17, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of William P. White, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim years ago was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 114.

HENRY JUDGE.

OCTOBER 17, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HERMANN, from the Committee on War Claims, submitted the following

REPORT:

[To accompany H. R. 889.]

The Committee on War Claims, having had under consideration the bill (H. R. 899) for the relief of Henry Judge, of Ashland, Oregon, beg leave to report as follows:

Your committee find that the colonel of the First Regiment of the Oregon Cavalry Volunteers, at Fort Klamath, in the State of Oregon, in the year 1861–'62, contracted with Henry Judge, the claimant, to furnish certain companies and parts of companies of his regiment with equipments, consisting of saddles, bridles, halters, and spurs, at the agreed price of $42 per each equipment so furnished.

The claimant did furnish, within the time and for the price agreed upon, the equipments mentioned, to the value of $3,780. The equipments were used by the soldiers, and the money was placed in the hands of the captain of one of the companies—Smiley Harris, of Company A of said regiment. That officer squandered the money and never paid the same to claimant, and immediately thereafter he resigned from the United States service and died.

In view of these facts, which are all substantiated by luminous testimony, your committee believe the claim should be paid, and therefore report back the bill (H. R. 899) with a favorable recommendation.

O

53D CONGRESS, 1st Session. | HOUSE OF REPRESENTATIVES. | REPORT No. 115.

ADDISON M. COPEN

OCTOBER 17, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HOUK, of Ohio, from the Committee on Pensions, submitted the following

REPORT:

[To accompany H. R. 1868.]

The Committee on Pensions, to whom was referred the bill (H. R. 1868) granting relief to Addison M. Copen, having considered the same, beg leave to submit the following report:

Mr. Copen was a private in Company I, Third U. S. Dragoons, and served from April 22, 1847, to July 31, 1848, in the war with Mexico. On April 13, 1866, he filed an application for pension which was subsequently rejected on the ground of his inability to furnish the evidence necessary to establish it.

By a special act of Congress approved March 3, 1885, Mr. Copen's name was placed upon the pension roll, subject to the provisions and limitations of the general pension laws, and he was allowed a rating of $8 per month on account of varicose veins and chronic eczema; result of phlegmonous erysipelas. This rating was increased subsequently by the Pension Bureau to $14 per month, and in the Fifty-second Congress a special act was passed increasing the pension to $20 per month, which is the amount he now receives.

In addition to the diseases above named Mr. Copen suffers severely from chronic rheumatism, but as this disability was inadvertently (as he alleges) left out of his original application it has never received recognition at the Pension Office, and he is unable to receive any pension on account of that disease until the authorities are authorized by Congress to include it in his certificate. Mr. Copen contends that his rheumatic affection is directly the result of his erysipelas and hence had its origin in the military service.

The beneficiary was before your committee, and it is apparent that his statements relative to his age (nearly 70 years) and broken-down condition are true, and it was shown in the evidence before your committee in the Fifty-second Congress that he is entirely without resources aside from his pension, and that much of the time he has been dependent upon charity for support.

The report of medical examination on file in his papers at the Pension Office shows that his left hand is practically useless and that his physical condition generally is very bad. There is no evidence whatever that any of his disabilities are due to intemperate or vicious habits.

In view of the claimant's necessities and his aged and feeble condition, your committee believe his pension should be rated so as to include all disabilities suffered by him, and the bill is therefore returned with the recommendation that it do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 116.

CHEROKEE CLAIMANTS TO PURCHASE TRACTS OF LAND.

OCTOBER 17, 1893.—Indefinitely postponed and ordered to be printed.

Mr. MCRAE, from the Committee on the Public Lands, submitted the following adverse

REPORT:

[To accompany S. 457.]

The Committee on the Public Lands, to whom was referred the bill (S. 457) authorizing certain Cherokee allottees or claimants to purchase certain tracts held and claimed by them, have had the same under consideration and report the same back with the recommendation that it be indefinitely postponed.

The following letter from the honorable Secretary of the Interior will fully explain why the bill should not pass:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., September 29, 1893.

SIR: I have the honor to acknowledge the receipt of your communication referring to this Department Senate bill 457, with the request for my opinion of the propriety of passing the same.

In the agreement with the Cherokee Nation concerning the lands commonly known as the "Cherokee Outlet" it was provided that citizens of the Cherokee Nation possessing certain qualifications should have the right to select allotments on the ceded lands, said allotments being limited to the number of seventy. In the act of March 3, 1893 (27 Stat., 640), ratifying said agreement, the following provisions in relation to these allotments is found:

"The allotments provided for in the fifth section of said agreement shall be made without delay by the persons entitled thereto, and shall be confirmed by the Secretary of the Interior before the date when said lands shall be declared open to settlement; and the allotments so made shall be published by the Secretary of the Interior for the protection of proposed settlers."

A number of applications, considerably in excess of the seventy provided for, for allotments under said agreement were presented. Upon consideration of these applications in the Department it was decided that but sixty-two of the number had shown themselves entitled, and that number were accordingly confirmed and published prior to the opening of said lands to settlement.

Inasmuch as this Department, after a careful consideration of the matter, found less than the number provided for entitled to allotments, and as the lands in question have been opened to settlement without reservations being made for the purpose contemplated by this bill, I am of the opinion it should not be passed.

Said bill is herewith returned.

Very respectfully,

HOKE SMITH,
Secretary.

Hon. THOS. C. MCRAE,
Chairman Committee on the Public Lands, House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 117.

EXTENSION OF NORTH CAPITOL STREET.

OCTOBER 18, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. RICHARDSON, of Tennessee, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 146.]

The Committee on the District of Columbia have considered the bill (H. R. 146) to extend North Capitol street to the Soldiers' Home and report same with recommendation that it do pass with an amendment.

The committee find all the facts applicable to this matter set forth in a letter from the Commissioners of the District of Columbia of date September 26, 1893. This letter is, therefore, herewith submitted as a part of this report.

The Commissioners recommend that the cost of grading be limited to $10,000. In accordance with that recommendation the committee offer the following amendment: After the words "this act," in line 14, first page of the bill, add the following: "but the cost of grading shall not exceed $10,000."

The committee deem it proper to add that, in view of the fact that the charter of Prospect Hill Cemetery, mentioned in the bill, prohibits the projection of streets through any portion of its land exclusively used and appropriated for cemetery purposes, and that clause of the charter not being repealed, this street can not be opened under the general statute for extension of streets; therefore special legislation is needed to open North Capitol street.

WASHINGTON, D. C., *September 26, 1893.*

DEAR SIR: The Commissioners of the District of Columbia herewith return House bill 166, "to extend North Capitol street to the Soldiers' Home," which was referred to them at your instance for their views thereon, and have to make the following recommendation on the subject:

The extension of North Capitol street through the lands of the Prospect Hill Cemetery and of the Barbour tract is contemplated in the plans of street extensions now being drawn under act of March 2, 1893, for a permanent system of highways outside of cities.

The present extension of part width of North Capitol street to the Soldiers' Home is desirable, as it will afford a route for convenient and cheap transportation from Washington to the Soldiers' Home. The Eckington and Soldiers' Home Railway Company is authorized by the act of April 30, 1890, to extend a branch of its system from New York avenue via North Capitol street to the Soldiers' Home; the act requires this branch to be built and operated within one year after the opening of North Capitol street; the tracks of the branch are laid from New York avenue to T street, but have not yet been operated. T street is the sixth street north of Florida avenue.

The street car company has not applied to the Commissioners for the opening of North Capitol street, neither is it known that the company desires to extend its branch up that street, but it is considered by the Commissioners that such extension would be advantageous to the public. The present system of the Eckington and Soldiers' Home Railway is extensive, and permeates the thickly settled part of Washington. The route via North Capitol street is the shortest available one from the Soldiers' Home.

There is no present necessity for grading to full width the part of North Capitol street proposed to be opened. It is, therefore, recommended that a provision be inserted in the bill limiting the cost of grading to $10,000; this will permit the opening of the street to a width of 40 feet, or nearly 40 feet, giving sufficient room for double tracks for street railway.

The amount named is the same as that which the Commissioners propose to recommend for appropriation for 1895 for extending each of the principal avenues and streets whose extensions have been commenced.

Very respectfully,

JNO. W. ROSS,
President Board Commissioners.

Hon. JNO. T. HEARD,
Chairman of Committee on the District of Columbia,
House of Representatives.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 118.

EASTERN DISTRICT OF MICHIGAN.

OCTOBER 18, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3713.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3713) to provide for the division of the eastern district of Michigan into the northern and southern divisions, and for holding the circuit and district courts of the United States therein, and for other purposes, beg leave to report:

Your committee have fully considered said bill and find that it is intended to divide the eastern district of Michigan into two divisions, northern and southern. At present the State is divided into two districts, the western, which is divided into the northern and southern divisions (the upper peninsula constituting the northern division), and the eastern district, which it is sought to divide by this bill. The population of the proposed division would be 452,071, and the southern division would have a population of 770,390. The bill, instead of increasing, would diminish expenses. The Government would be benefited by the saving in mileage, witness fees, and marshal fees paid under the present arrangement.

The contest of Bay City for sessions of the United States court was pending for many years, the contention being between that place and Saginaw, 13 miles farther up the river. This contention was ended in favor of Bay City in the Forty-ninth Congress, and in the Fiftieth Congress an appropriation of $200,000 was made for a Federal building at Bay City, which is now almost ready for occupancy and in which the courts will be held.

The connection between Saginaw County, with its population of 82,000 and upwards, and Bay City is by three lines of railway and boats on the river. There is proper rail communication between all parts of the district and Bay City, and expense and delay will be saved to litigants as well as to the Government by the bill. Bay City is the second point in importance on the Great Lakes in the ship-building interests, containing yards for the building of wooden and steel vessels. It also contains many transportation companies, which own and control some of the heaviest crafts on the lakes, and it is believed that the residents of Bay City and Saginaw own and control more vessels, probably, than all other places, including Detroit, in the eastern district of Michigan.

There are many merchants in Bay City furnishing vessels with supplies, many foundries and machine shops furnishing them with machinery, and repairs are made to many vessels at the shipyards. This is productive of a large amount of admiralty business, which now goes

to Detroit, where the admiralty cases are held in the winter, and at much inconvenience to litigants in the northern part of the district. Another objection to the present arrangement is the matter of constructive mileage. The marshal at his office in Detroit deposits a writ in the post-office at that place. It is taken by mail to Bay City, a distance of 108 miles, for 2 cents, and the marshal charges $10.80 fees for constructive mileage in addition to a charge for services of the process. The worst difficulty, however, is the test and returning of writs, both of which must be at Detroit, thus preventing prompt action in reference to business arising in the northern part of the eastern district, especially in the Saginaw Valley, containing a population of nearly 150,000, delay in many cases preventing any action being taken at all.

The committee recommend that said bill be amended by striking out all of section 5, and that the word "circuit" in line 8 of page 3 of said bill be stricken out and the word "district" be inserted in lieu thereof, and with these amendments the committee report the bill back and recommend that the same do pass.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 119.

CLERK TO COMMITTEE ON EDUCATION.

OCTOBER 18, 1893.—Ordered to be printed.

Mr. RUSK, from the Committee on Accounts, submitted the following

REPORT:

[To accompany Mis. Doc. No. 38.]

The Committee on Accounts, to whom was referred the accompanying resolution, respectfully report that they have examined into and considered the same, and offer the following substitute and recommend its passage:

"*Resolved*, That one of the thirty-six clerks to the committees of the House during the session provided for by the legislative, executive, and judicial appropriation bill for the fiscal year ending June 30, 1894, be, and is hereby, allowed and assigned for the present Congress to the Committee on Education; and

"*Resolved*, That the pay of said clerk shall begin from the time such clerk entered upon the discharge of his duties, which shall be ascertained and evidenced by the certificate of the chairman of the committee."

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 120.

ENGINEERS ON STEAM VESSELS OF THE UNITED STATES.

OCTOBER 19, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 411.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 411) entitled "A bill to require steam vessels of the United States, of one thousand tons or more, to have one engineer and helper on watch in their engine rooms while under way, and to require all steam vessels of the United States, continuously under steam for more than ten hours, to carry two licensed engineers," having carefully considered the same, respectfully report and recommend the passage of said bill, with the following amendments, viz:

In line 7 of the bill, between the words "hours" and "shall," insert the word "daily."

After the word "engineers," in line 8 of the bill, insert the following, viz:

Provided, however, That the last clause of this act shall not be construed to apply to ferryboats or to steam vessels whose usual or regular employment does not exceed ten hours daily.

Amend the title of said bill by striking out the word "continuously" in line 4 of the title.

Strike out the word "all" in line 3 of the title and insert the word "certain" in lieu thereof.

In line 5 of the bill, between the words "helper" and "on," insert the words "or oiler."

In line 6 of the bill, after the word "steam," insert the words "and is navigated."

In line 7 of the bill strike out the word "continuously."

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 121.

AMENDMENT TO SECTION 4131, REVISED STATUTES.

OCTOBER 19, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 101.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 101) entitled "A bill to amend section 4131 of the Revised Statutes of the United States," having carefully considered the same, respectfully report and recommend the passage of said bill, with the following amendment:

After the words "United States," in line 16 of the bill, insert the following, viz:

Provided, however, That in cases where on a foreign voyage, or on a voyage from an Atlantic to a Pacific port of the United States, any such vessel is, for any reason, deprived of the services of an officer below the grade of master, his place, or a vacancy caused by the promotion of another officer to such place, may be supplied by a person not a citizen of the United States until the first return of such vessel to its home port; and such vessel shall not be liable to any penalty or penal tax for such employment of an alien officer.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 122.

PERSONNEL OF THE NAVY.

OCTOBER 19, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MEYER, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany Mis. Doc. 39.]

The Committee on Naval Affairs, to whom was referred the concurrent resolution authorizing the appointment of a joint committee to investigate and consider the subject of the rank, pay, and other matters relating to the personnel of the Navy, have the honor to make the following report:

The importance of the subject has been continuously recognized by the Navy Department and by preceding Congresses, and has remained unacted upon, except in special instances and by piecemeal only, for want of time and proper concert of action. With the growth of the *matérial* of the navy, the necessity of reorganization is becoming yearly more pressing. Inasmuch as it is impossible to deal adequately with the subject by reference to one branch of the service, or with regard to especial cases, it is deemed that a joint committee, empowered to investigate fully and thoroughly and as a whole, can most satisfactorily ascertain the best method to remedy the difficulties of the situation.

Various measures have been proposed for the reorganization of the service, or a part of it. These can all be thus considered in special relation to each other; and by this means Congressional action will rest upon a broad basis of the requirements of the whole Navy, instead of fragmentary reforms affecting only particular branches of the service.

Much conflict of opinion exists as to the organization and status of the staff of the Navy, which should receive further legislative action. This is more especially the case with the Engineer Corps, some maintaining that the present authorized force is greater than needed; others that the number is inadequate and that an enlargement is necessary. The contention being, in the first instance, that skilled and trained engineers are needed mainly for the purposes of construction and scientific work on shore, and that a separate corps of sea-going engineers, drawn from the most competent members of the machinist grade, would prove sufficiently efficient, under the general supervision of the line officers. The great ocean steamers, such as the *Paris*, the *Campania*, and others, are handled most successfully and at the highest speed, not by the scientific, but by men who have been trained as, and who have had the practical skill of, machinist. England, whose actions and systems are based upon the most careful investigation and are the result of the most practical tests, is gradually, it is claimed, coming to the plan of relying upon machinists for engine-room duty on her war

ships; and it is now proposed to give them rank of warrant officers as a reward, and to inspire them with a higher sense of their responsibilities for their important duties.

On the other hand, it is claimed that scientific engineers *and no others* are competent to run modern engines. It is advanced, with much force, that a modern man of war is a vast and complex machine, needing intelligent and trained minds to insure a perfect working of all the parts, failure in any one of which may be fatal at a vital moment; and the sense of responsibility, the physical and nervous strain upon the engineer officer charged with the care and supervision of this network of machinery is very great; his duties are not only of the highest importance, for upon him depends the efficiency of the motive power, but they are at the same time arduous and dangerous. Manual labor and subordinates are at his service, but he can not be everywhere, and he should have the assistance of men like himself, and commissioned like himself, to share his responsibilities. Our new vessels embrace all that is most advanced in high-class machinery. There are a multitude of engines and devices by means of which steam, electrical, and mechanical appliances are made to do the work of man; under this view, it would seem then to be a false economy to provide an insufficient number of officers to control them, and hazardous to rely upon any but men of the highest and most thorough training.

In reference to the line officers the argument in favor of measures for a change is strong, and must convince any impartial body that a radical modification of existing laws must be made to prevent the personnel of the Navy from becoming totally inefficient from congestion and paralysis; and a correct apprehension of the serious character of the existing evils, of their inevitable effect, must be followed by the admission that some immediate remedy is needed.

The causes of the present stagnation in promotion and efficiency are deemed as follows:

(1) Owing to an excessive and enormous number of appointments as midshipmen in 1841, very few were made from that year to 1846, and these few have wholly disappeared. The survivors of 1841 date have very recently retired, and a cessation of retirements has followed, corresponding to the original cessation in appointing. This block to promotion has about disappeared; analogous to this cause of difficulty and operating in the same way, is the fact that the number of officers now remaining on the active list from those who entered between 1846 and 1859 is, owing to the civil war, considerably less than would normally survive. In consequence of this the annual retirements from the head of the list are now, and must for some years continue to be, below normal, and promotions correspondingly fewer.

(2) By the act of August, 1882, a reduction of twenty-nine was made in the number of rear-admirals, commodores, captains, and commanders. This put a stop to promotion in taking away so many possible vacancies; and these being at the head of the list, the effect was felt through every grade. An immediate and absolute stoppage was avoided by a provision of the act allowing one promotion for every two vacancies; but the actual loss of promotion still exists, though the effect was distributed over several years. The grade of lieutenant-commander was reduced by six at the same time, with a similar effect upon all below it. The grades remaining smaller, the waste from them is less, and the yearly promotions consequently fewer; and, as the number now allowed in flag rank bear less than their proper proportion to the whole Navy, and are not adequate to the requirements of the service, the

rate of promotion, under existing conditions, will, from this cause alone, continue smaller than it should be.

(3) The most serious cause for stagnation and one affecting a part of the service to which the country must, in a very few years hence, look for its leading naval officers is this:

During the eight years preceding 1860, from 1852 to 1859, both inclusive, the number graduated from the Naval Academy was less than the annual waste. During this period occurred also the scrutiny of the list in 1855, in consequence of which a large number of officers were removed from the active list, and their places filled from the passed midshipmen of the Navy. The effect of this was to reduce the number of officers, below the grade of lieutenant, from 258 in 1854, to 78 in 1857; rising in 1861 to no more than 91, among whom are included all graduated midshipmen. Under this state of things the war came, bringing a great number of resignations from all grades of the Navy, creating at once a large number of vacancies in the grades from lieutenant upward, to fill which from the usual and proper sources of supply, there existed only the meager provisions of 91 junior officers. The great necessary expansion to the fleet increased the embarrassment of the Department for officers, and particularly for watch and division officers to meet the emergency. The comparatively simple character of the armaments of that day, and the fact that the enemy had no Navy with which to assume an active attitude, enabled the Government to supply its wants in a fairly satisfactory manner from the merchant marine; but, without in the least detracting from the zeal and maritime experience of the officers who flocked from the latter into the Navy, it was perfectly plain that such a lack of young men, trained to military habits and drill, would have been utterly disastrous had our ships been called upon to confront a regular service.

To the experience of actual want for watch officers, is to be attributed the natural but most inconsiderate policy which prevailed from 1860 to 1867, inclusive, and to which the most serious features of the present distress are attributable, the numbers under instruction at the Naval Academy were kept at the highest possible limit, and the cadets pressed through to graduation with the utmost rapidity—the classes even being divided, according to the apparent ability of certain members to be pushed through in a shorter time than the average. On the first of January, 1865, when the war was about to close, there were 455 midshipmen in the Academy, of whom, and 31 others already graduated, a total of 486 had entered since the war began. In January, 1866, there were in the Academy 450, of whom 147 were in the lowest class. In that year 73 graduates entered the Navy. In January, 1867, the number at the Academy was 421, and in June there graduated 84. In June, 1868, graduated 78.

It should have been evident as a matter at the most of simple calculation, that the service could not, under any ordinary conditions of waste, absorb such large numbers and give them proper promotion. In 1862, the necessities of the war, and in 1866 a necessary reorganization, had each contributed to increase the numbers, and consequently the openings for promotion to graduates. The head man of the 78 who graduated in 1868, became a lieutenant in 1872, as did 15 others of his class, at an average age of 24. In 1893, they are still lieutenants at an age of 45. At the same time that this mass of graduates, so disproportionate to the probable openings of the future, were rushed into the Navy, the dates of 1860 and 1861, falling within the congested period, were further increased by the admission of a number of officers from

the volunteer navy, whose services and proved ability were considered deserving of such recognition on the part of the Government.

Too few officers in one part of the list and too many in another, both operate to check promotion from below. The facts point to the same conclusion, viz: that in a healthily constituted service the rate of diminution in numbers from year to year should approximate to the rates calculated by Actuary's rules.

ILLUSTRATIONS.

The condition of the Navy but ten years hence, if the present system continues, may be illustrated by the following:

(1) Of those who entered the service prior to 1860 there are now 18 who will not have retired from age by the end of 1903. Calculation based upon statistics, made according to actuaries' rules, show that this number will be reduced in ten years to 12. These 12 will be the 6 rear-admirals and 6 of the commodores. Of the 295 now remaining who entered in 1860 to 1867, inclusive, 22 will retire from age, leaving 273. The latter number will, by casualties other than retirements from age, be reduced to not less than 180. This is also reached by calculation based upon statistics and made according to actuaries' rules. The senior of these 180, who will be at the head of the date of 1860, will be the seventh commodore; and the junior, who will be at the foot of the date of 1867, will be the forty-fifth lieutenant-commander. The latter officer will have been in the service thirty-five years, and if entered at the age of 16 will be 51 years old.*

If the rate of advancement at this point of the list be placed at 10 per year (and this is a large allowance), this officer will reach the grade of commander 39½ years after date of entry, and at the age of 55½ years. He will have 6½ years more of active service, during which he will pass through the grades of commander, captain, commodore, and rear-admiral.

(2) Seventy-seven commanders, all the lieutenant-commanders (74), and 22 lieutenants, entered the service within a period of three years. Twenty-five years ago the senior of these commanders was at the head of the list of lieutenants (that is, 2 numbers higher than the junior of these lieutenants now is).

(3) Part of the date of 1861, the date of 1862, and a part of the date of 1863, that is, practically, 2 classes, fill the entire grade of lieutenant-commanders through which it has taken the senior 10½ years to pass.

(4) The twentieth and eighty-fourth commanders are one year apart in date of entry. The difference between the dates of their commissions as commanders is twelve years and six months.

(5) The head of the date of 1861, is a commander of seven years' standing; the foot of the same date is No. 10, on the list of lieutenant-commanders. If the latter be promoted in one year there will be eight years difference in the dates of commissions of two officers having the same length of service.

Many similar illustrations might be cited, but this is deemed sufficient.

In considering the effects upon the Navy of the existing conditions of the lists, which are partially illustrated by the examples just cited, the committee wishes to give prominence to the evident truth that the great aim of every system of naval promotion should be to produce thoroughly efficient commanding officers. The gathering of all the

*All quotations of present number of officers from the Navy Register of January 1, 1893.

powers of a military command within the hull of a single moving body, making them wholly dependent for their exertions upon its movements, invests with singular importance the functions of the officer to whom those movements are intrusted; and the ability of any subordinate to use successfully the particular weapons committed to his charge rests ultimately upon the manner in which the captain handles the ship, and the position in which he puts her.

It is also historically established that from the conditions of sea warfare the control of an admiral over the individual vessels of his fleet has been, in battle, less than the control of a general over the divisions of his army. This is due to many conditions, but chiefly to the necessity of immediate action in naval battles, which does not allow time for the transmission of particular orders in an emergency. This condition, which has always obtained, is much enhanced by the greater power of movement possessed by modern vessels, and it can safely be affirmed that, while very much will depend upon the first tactical combinations of an admiral, the combat will mainly be determined by the power of initiation upon the part of captains to meet those emergencies of combat which the admiral can not possibly foresee.

So much depends upon the captain's skill, and that skill is made up of many factors, the presence of some of which, it must be confessed, can not always be affirmed before tested in battle. The highest order of fearlessness, readiness, and presence of mind are only revealed by trial. But one factor, and that of the greatest importance to the average man, can be known and assured, and that is practice—the habit of commanding and directing the movements of a ship. Granting average original aptitude, and upon such an average only can general dispositions be based, the subsequent ability to command will depend almost wholly upon the opportunity for commanding. This implies, of course, a sufficient length of time in command rank, and recognizes implicitly the aptitude of youth to acquire habit, and the growing indisposition of advancing years to rise to tasks and responsibilities unknown to its earlier age. This implicit recognition should receive explicit avowal by prescribing a minimum age at which command rank should be reached, as well as by providing a proportion of vessels adequate to impose constant practice of sea service and drill upon officers in command rank.

Unquestionably much might be accomplished in the direction of giving command at an early age, and so insuring the necessary habit by a system of purely personal selection, similar to that employed habitually in private business life; but independently of the difficulty of recognizing, in time of peace, the best men for war, it is not possible to supply in governmental selection (unless in war) that pressure of immediate personal interest in the efficiency of the person selected, which, in other pursuits, corrects the tendency of favoritism. This is especially true in our country, where the infrequency of war places military interests at a discount, and, even in military affairs, tends to allow political influence to preponderate over military. It is certain that the apprehension of this predominance mainly accounts for the repugnance heretofore manifested in the Navy to promotion by selection.

Nevertheless, selection of some sort and by some rule must be applied if command rank is to be reached at an age when responsibility can be assumed and readily formed, and the habit of command readily formed and efficiently acquired. A selection by age is already operative in almost every naval service. In our own, for over twenty-five years back,

the retirement of officers at 62 has been a practical selection against them and in favor of their juniors.

Under some form of qualifications a selection by age or by length of service based upon average ages seems to be the means best suited to obtain the great desideratum, the one thing absolutely essential to an efficient service, viz, command at a specified minimum age, assuring a career as captains and admirals of an average sufficient length of time to give a well-formed habit of command and practice in handling ships among the officers of those grades. Unless selection in some form is practiced it necessarily follows, from the promotion of officers under command rank to those holding it, that, with the best distribution of numbers among the grades, promotion by seniority alone will gradually advance the age at which command is reached, until a condition of block will recur similar to that now existent. The latter is simply an enormous exaggeration, a caricature, of the evils resulting from promotion by seniority alone.

The effects upon junior officers, junior, that is, in rank up to the verge of late middle life, can scarcely be understood by those unfamiliar with the service and the recognized theory of a captain's responsibility. The theory is that the captain is always on duty and at all times responsible; whatever is done by another is, so far as responsibility goes, done by him. This theory, which is apparently inseparable from the unity essential to all military command, works in two ways. The captain shrinks from permitting to others, his juniors, the charge of movements. If harm results he will be responsible to the Department. The junior shrinks from assuming any responsibility without the express permission, which the captain is unwilling to give. Thus is unconsciously but inevitably formed on the part of the junior a habit of constant reference, in cases of even slight difficulty, to the judgment of another, and of constant disregard of his own judgment. Upon promotion to command rank the change of position is violent, but the old habit remains; and if the change takes place late in life the habit will not be thrown off with the ease of earlier years, if at all. If it remain in the common form of self-distrust, lack of confidence in one's own judgment, it constitutes a very serious defect in that efficiency of the commanding officers, to produce which has been asserted to be, as it undoubtedly is, the great aim of any system of promotion.

"I consider it a great advantage," wrote the late Admiral Farragut, "to obtain command young; having observed as a general thing that persons who come into authority late in life shrink from responsibility, and often break down under its weight."*

By the conditions thus shown the U. S. Navy has reached a state of things which during the next twenty years must exist in a most aggravated form. Nor is this all, for the officers who thus reach command and flag rank at a very advanced age will also have so short a period to remain in them they will neither have time to change their habit, nor the inducement to do so, arising from a reasonable length of active career before them.

It is, therefore, now high time to seek and apply a remedy. If much longer delayed the efficiency of our Navy will assuredly be jeopardized.

ENLISTED MEN OF THE NAVY.

Much can be and should be done to improve the status of the enlisted men of the Navy. Under the present method and system the

* Life of Admiral Farragut, p. 81.

service offers but few if any rewards for them. They are its bone and sinew, and yet the opportunities for advancement are more difficult than exist under many of the monarchical governments of the Old World. However high may be his qualifications, however great his zeal and worth, even though he may possess and have acquired all of the attributes essential for an officer's duties, a commission is denied him. A petty officer's badge, or at the most the warrant of a gunner, is the extreme limit of his preferment.

The American youth of spirit, proud of his country and its free institutions, finds no allurement in a service which thus bars to him its glittering and highest prizes. Promotions from the ranks are quite frequent in the Army, and these opportunities have undoubtedly attracted a better element into its ranks. Why should we not, in democratic America, apply a similar system to the Navy?

Now, our vessels are manned mainly by foreign seamen. Our American boys of stamina and spirit will not enlist unless they see some hope, some encouragement that an officer's commission is not beyond the reach of the meritorious seaman.

MEASURES OF ENCOURAGEMENT TO REMAIN IN THE NAVY.

Some system of retirement after long and continuous service would make it more attractive, and by some such action a remedy may be found for the present necessary employment of foreigners and aliens to man our warships. The navy of our country should be manned by its loyal and patriotic youth, representing its best progressive manhood, a bulwark of strength and moral force, such as contributed to its glory and success in its earlier history and which gave to its ranks a John Paul Jones and a Bainbridge, a Hull and a Preble.

Your committee recommend the passage of the concurrent resolution.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 123.

URGENT DEFICIENCY APPROPRIATION BILL.

OCTOBER 20, 1893.—Ordered to be printed.

Mr. SAYERS, from the Committee on Appropriations, submitted the following

REPORT:

[To accompany H. R. 4177.]

The Committee on Appropriations, to whom was referred House Executive Document No. 18, submitting an estimate of a deficiency in the appropriations for pay of assistant custodians and janitors for the fiscal year 1894, and House Miscellaneous Document No. 36, from the Clerk of the House, calling attention to a deficiency in the appropriation for clerk hire for Members and Delegates, after considering the same, recommend the passage of the accompanying bill, making appropriations as follows:

For pay of assistant custodians and janitors, $127,500, which sum makes the appropriations for the service the sum that it was for the fiscal year 1893, adding thereto $41,903 for new buildings completed and occupied only a part of the fiscal year 1893, and $10,679 for new buildings that will be completed and occupied during the current fiscal year.

For payment of Members and Delegates the amount which they certify they have paid or agree to pay for clerk hire necessarily employed by them in the discharge of their official and representative duties, authorized in the joint resolution approved March 3, 1893, $200,000. This sum, it is believed, will provide for this service approximately until May 1, next.

The bill also appropriates $6,000 for reconstructing the barn of the Reform School of the District of Columbia, destroyed by fire on July 23, 1893, and $4,500 for replacing the horses, farming implements, etc., destroyed by said fire.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 124.

AMBROSE GISEBURT.

OCTOBER 20, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FYAN, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany H. R. 3309.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3309) granting a pension to Ambrose Giseburt, submit the following report:

The petitioner alleges that he served in Company K, Thirty-third Missouri Enrolled Militia, from September 1, 1862, until the spring of 1865. He filed a claim in the Pension Bureau which was rejected on the ground that the organization in which he served was not in the military service of the United States, being purely a State organization, and in this rejection no other points were considered, no evidence having been filed as to origin of injuries alleged.

In his petition to Congress the claimant states that in August, 1864, while in pursuit of Col. Threlkeld, of the Confederate forces, in Pike County, Mo., while charging the enemy his horse fell with him and several other horses ran over him, injuring his right hip and shoulder.

Gideon Gilreath, of Gallatin, Mo., testifies that he met the claimant after his return from pursuit of Confederate raiders in summer of 1864, when he was so badly injured that he had to be sent home and was not fit for duty any more during the war, and has complained of these injuries ever since.

Joseph H. McGee, of Gallatin, Mo., who was major of the First Missouri State Militia Cavalry, testifies that he knew of the "Threlkeld" raid and knew the claimant, and that when they returned from that raid the claimant was sent home, said to be badly injured by being run over and trampled by a loose horse, and knows that he has complained of this injury ever since.

Frederick Snider, of Gallatin, Mo., testifies that he has had knowledge of the claimant being disabled for twenty-five years.

Jesse A. Creekmore and John A. Wampler, of Gallatin, Mo., testify to incurrence of injuries to right hip and shoulder as alleged, both being present at the time, affiant Wampler being near enough to hear him cry out that he was hurt.

Dr. Jas. C. Frazier and Dr. J. M. Lawrence, of Gallatin, Mo., testify to the present disabled condition of the claimant's right hip and right shoulder.

Following the analogy of a well-established precedent of the Committees on Invalid Pensions, favoring special-act pensions for men not regularly mustered into the United States service only for wounds

incurred in an engagement with the enemy, your committee report this bill favorably and recommend that it do pass after being amended as follows:

After the word "militia," in the last line, add the words "at a rate proportionate to the degree of disability from injury to right hip and right shoulder, provided said injury be shown to the satisfaction of the Pension Bureau to have been incurred in an engagement with armed enemies of the United States."

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 125.

REPORTING, MARKING, AND REMOVAL OF DERELICTS.

OCTOBER 20, 1893.—Ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. Res. 55.]

The Committee on Interstate and Foreign Commerce, to whom was referred the joint resolution (H. Res. 55) for the reporting, marking, and removal of derelicts, report the same back with amendments, and with the recommendation that the joint resolution as so amended do pass.

Amend as follows:

In line 9, after the word "thereon," insert the words: "*Provided*, That the cost of carrying out the said international agreement, when made, shall not exceed the sum of five thousand dollars on the part of the Government of the United States."

Strike out all in lines 10, 11, 12, and 13.

The accompanying letter of the Secretary of the Treasury, dated October 2, 1893, which is made a part of this report, shows that he deems this joint resolution a "proper one," and that he recommends its adoption.

But the following extracts from the forthcoming report of Hon. E. C. O'Brien, Commissioner of Navigation, furnished to your committee by himself, which are also made a part of this report, show not only in a greater degree, but in a quite complete way, the necessity of this legislation:

Precious cargoes and still more precious lives are greatly threatened by these derelictsevery time a steamer or a sail vessel passes between the United States and Europe and along the North American coast, and they are not infrequently destroyed by them. Charts have done much for the safety of commerce by showing the positions of 332 vessels abandoned on the high seas and by marking the drift tracks of 139 of them; but they have utterly failed, and this is an alarming fact, to show the tracks of 625 derelicts, which have been reported. It is another alarming fact they have tracks and do drift. They are here to-day, they are yonder to-morrow. They are a roving fleet, but they always hover closely and speedily upon the very pathway of commerce. They are more dangerous than a fleet of pirates, because they are vastly more numerous, because they strike even more by night than by day, and because they are more merciless when they do strike. To destroy them is the only effective way of dealing with them.

TREASURY DEPARTMENT,
Washington, D. C., October 2, 1893.

SIR: This Department is in receipt of the letter from the clerk of your committee, dated the 26th ultimo, inclosing House resolution (joint) No. 55, current session, and requesting that the committee be furnished with such suggestions as may be deemed proper touching the merits of the bill and the propriety of its passage. The bill authorizes the President of the United States to make an agreement with the several governments interested in the navigation of the North Atlantic Ocean for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation in the North Atlantic Ocean outside the coast waters of the respective countries bordering said ocean. It appropriates $5,000 for the purpose of carrying out the provisions of the resolution.

As a reply I transmit herewith an extract on the subject from the forthcoming report of the Commissioner of Navigation, in which he urgently advises the passage of the measure.

A memorandum is also inclosed, showing reports of wrecks and derelicts within a short time.

The necessity for an international agreement among the governments concerned, whereby wrecks, derelicts, and other menaces to navigation in the North Atlantic Ocean would be reported, marked, and removed under due official supervision, was emphasized by the international marine conference held in Washington, D. C., in 1889.

I believe the resolution a proper one and recommend its adoption.

Respectfully, yours,

J. G. CARLISLE,
Secretary.

Hon. GEORGE D. WISE,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

[Extracts from the forthcoming report of Commissioner of Navigation.]

* * * * * * *

DERELICTS AND OTHER OBSTRUCTIONS TO NAVIGATION ON THE NORTH ATLANTIC OCEAN.

It is, however, to derelicts and other obstructions to navigation on the high seas to which I have the honor especially to invite your attention at the present time. This, of course, is a subject of international concernment, and it is one of great and growing importance. The United States Government has already taken the initiative in this important work, and it can not now, without discredit to itself, abandon this important service to international commerce and to mankind.

By the act of Congress approved July 9, 1888, the President of the United States was authorized and empowered to invite the maritime powers of the globe to take part in a conference to be held at Washington. That invitation was duly issued. The commercial nations, almost without exception, responded to the invitation, and on the 16th of October, 1889, the International Marine Conference was organized at this capital.

The American delegates to this conference were selected by President Cleveland with great care and with special reference to their ability and knowledge of maritime affairs. Prior to the assembling of the conference the American delegates had agreed upon a programme of subjects to be discussed, which subsequently constituted the order of exercises of the conference. This programme included the important subject of "reporting, marking, and removing dangerous wrecks or obstructions to navigation."

The conference readily came to the conclusion that this is a work confined by the conditions of international commerce chiefly to the North Atlantic Ocean. From 60 to 70 per cent of the entire oceanic international commerce of the globe is now carried on between North America and Europe, and mainly within the limits of a geographical area or belt about 4,000 miles long from east to west, and with a variable width averaging about 600 miles. This belt of water comprises less than 2 per cent of the entire ocean surface of the globe. The proportion of wrecks and derelicts within the limits of this geographical area is probably larger even than its proportion of the commerce of the globe, for the Atlantic is a storm-swept ocean.

Derelicts in other parts of the ocean are so few and far between that it is a hopeless task to attempt to discover them. It was, therefore, clearly seen by the confer-

ence that it is unwise for the maritime nations to attempt to do much more than provide for the removal of derelicts in the North Atlantic, and particularly in that great lane of commerce between the United States and Europe, and along the North American coast. A very large proportion of such derelicts are found in that part of the ocean belt above described, which lies west of a line drawn from the Bermuda Islands to Cape Race, Newfoundland. All this is clearly indicated upon the chart of the North Atlantic Ocean, which may be found at the end of this report. Accordingly the conference adopted the following resolution:

"6. That the different maritime powers interested in the navigation of that portion of the North Atlantic Ocean bordering the American coast and situated westward of a line drawn from the Bermuda Islands to Cape Race, Newfoundland, be invited to come to an agreement respecting the removal of derelicts in these waters under due official supervision."

But three years passed without action on the part of any nation in regard to this important subject affecting every year the lives of many thousands of people, and also hundreds of millions of dollars worth of property.

* * * * * * *

The deep interest taken in this subject by the owners and managers of the great coastwise steamer lines which are carrying on a very large traffic between American ports is indicated in the following letter addressed to the Commissioner of Navigation by the president of the American Steamship Association, of June 24, 1892:

AMERICAN STEAMSHIP ASSOCIATION,
12 South Delaware avenue, Philadelphia, June 24, 1893.

DEAR SIR: My friend Dr. Glavis told me yesterday that you were making heroic efforts to get rid of derelicts on the Atlantic coast. I am rejoiced at this, as the members of our association are complaining bitterly at these unlighted and unmarked obstructions in the way of navigation. They have seemingly been so frequent of late that no captain going up or down the coast feels easy relative to this matter until his vessel is in port and made fast at the dock.

I sincerely hope that your efforts will be successful and that immediate steps will be taken not only to remove the derelicts but in the future to provide for patrolling the coast by Government vessels or the immediate removal of any derelicts reported by any merchantman, or both. If I can be of any service to you in the matter please command me.

D. D. C. MINK, *President.*

Hon. E. C. O'BRIEN,
Commissioner of Navigation, Washington, D. C.

* * * * * * *

(1) There appears to be an annual total loss of 2,172 vessels and about 12,000 lives in the entire ocean commerce of the world. (2) The annual value of the ships and cargoes thus lost is estimated at about $100,000,000. (3) The Hydrographic Chart issued February 20, 1893, shows the places where 956 vessels were wrecked on the Atlantic coast of North America. It also shows the positions of 332 vessels abandoned on the high seas, of which 139 were so frequently reported that their drift tracks are marked on the chart. Besides there were 625 derelicts reported whose tracks were not ascertained. The 625 unknown and 332 known derelicts make a total of 957 during the period of five years from 1887 to 1891, inclusive, an average of 16 each month. During the same period there occurred 38 collisions with derelicts, or an average of 8 every year. (4) The average time a derelict remains afloat is found to be about thirty days.

The Pilot Chart for February, 1893, showed 45 derelicts afloat in the North Atlantic, 25 of which were in the track of transatlantic steamers.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 126.

REVENUE CUTTER FOR SERVICE IN HARBOR OF SAN FRANCISCO.

OCTOBER 20, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2669.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 2669) making an appropriation and providing for the construction of a United States revenue cutter for service in the harbor of San Francisco, State of California, report the same back with an amendment and with the recommendation that the bill as so amended do pass.

Amend by striking out all after the enacting clause and inserting in lieu thereof the words: "That the Secretary of the Treasury be, and he is hereby, authorized to have constructed a revenue cutter for service in the harbor of San Francisco, State of California: *Provided*, That the cost of said construction shall not exceed the sum of $50,000."

Attached hereto and made a part of this report is a letter of the Acting Secretary of the Treasury of September 19, 1893, showing the necessity of this legislation:

This committee in the Fifty-second Congress reported a bill similar to this and repeatedly urged the passage of it by Congress, but without success. Your committee is more urgent still for the passage of this bill, because the lapse of two years has not improved the condition of the revenue tug *Hartley*, which even at that time was, in consequence of its age, its size, and the quality of its machinery, utterly unfit for the service required of it which the revenue cutter provided for in this bill is designed to supply.

TREASURY DEPARTMENT, *September 19, 1893.*

SIR: I have respectfully to acknowledge the receipt of a communication, dated the 16th instant, from the Committee on Interstate and Foreign Commerce, transmitting for information and advice as to its passage House bill 2669, appropriating the sum of $50,000 for the construction of a revenue cutter for service in the harbor of San Francisco.

In reply I have the honor to state that the revenue tug *Hartley*, at present performing boarding duty in San Francisco Harbor and Bay, is an old boat and entirely too small for the service required at that port. There is greatly needed for this duty a larger boat provided with more modern type of machinery.

In my opinion a vessel of the kind required can be constructed for the sum named ($50,000), and I recommend the passage of the bill, which is herewith returned.

This letter is also intended as a reply to the one of the 13th instant from the same committee, transmitting a similar bill.

Respectfully yours,

C. S. HAMLIN,
Acting Secretary.

Hon. GEORGE D. WISE, M. C.,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 127.

STEAM REVENUE CUTTER FOR SERVICE ON THE GREAT LAKES.

OCTOBER 20, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3297.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 3297) providing for the construction of a steam revenue cutter for service on the Great Lakes, report the same back with an amendment and with the recommendation that the bill, as so amended, do pass.

Amend by striking out all after the word "Lakes," in line 5, until the end of the bill, and inserting in lieu thereof the the words: "*Provided*, That the cost of said construction shall not exceed the sum of one hundred and seventy-five thousand dollars."

Attached hereto and made a part of this report is a letter of the Acting Secretary of the Treasury of September 27, 1893, explaining the necessity of this legislation. Also attached hereto and made a part of this report is a report of this committee in the Fifty-second Congress, showing the need of a new revenue cutter for service at the points indicated in the bill. This committee was urgent, but without success, at that time for the passage of a bill supplying that need. Our urgency is greater still, because the need is greater, the passage of two years having worked additional mischief to the hull and machinery of an already worn-out old hulk like the *Andrew Johnson*.

TREASURY DEPARTMENT, *September 27, 1893.*

SIR: I have respectfully to acknowledge the receipt of a communication, dated 22d instant, from the Committee on Interstate and Foreign Commerce, transmitting, for the views of this Department, H. R. bill 3297, providing for the construction of a steam revenue cutter of the first class for service on the Great Lakes, and appropriating therefor the sum of $175,000.

In reply, I have the honor to state that the vessel provided for in the bill is required to take the place of the revenue steamer *Johnson*, stationed at Milwaukee, Wis., with cruising grounds covering lakes Michigan and Superior.

The *Johnson* is an old side-wheel vessel, built nearly thirty years ago, and requires frequent and expensive repairs. Her hull is nearly worn out and her machinery is of obselete type. A new vessel of modern construction is needed to take her place.

I consider the amount named in the bill sufficient to construct the class of vessel required, and I earnestly recommend the passage of House bill 3297, which is herewith returned.

Respectfully, yours,

C. S. HAMLIN,
Acting Secretary.

Hon. GEORGE D. WISE, M. C.,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives.

[House Report No. 820, Fifty-second Congress, first session.]

The Committee on Interstate and Foreign Commerce, having duly considered Senate bill 1681, making an appropriation for the construction of two United States revenue cutters on the Great Lakes, make the following report:

The Committee on Commerce of the Senate referred the bill to the Secretary of the Treasury, and he replied, showing the necessity of additional revenue cutters on the Great Lakes, as follows:

TREASURY DEPARTMENT, *January 26, 1892.*

SIR: I have respectfully to acknowledge the receipt of a communication, dated the 19th instant, from the Committee on Commerce, inclosing for the views of this Department Senate bill 1681, appropriating $275,000 for the purpose of constructing two first-class revenue cutters for the Great Lakes—one for service in lakes Michigan and Superior and one for service on Lake Ontario.

In reply I have the honor to state that one of the vessels referred to in the bill is required to take the place of the revenue steamer *Johnson*, stationed at Milwaukee, Wis., with cruising grounds covering lakes Michigan and Superior. The *Johnson* is an old side-wheel vessel, having been built over twenty-five years ago, and requires frequent and expensive repairs. Her hull is nearly worn out and her machinery of an obsolete type. A new vessel of modern construction is needed to replace her.

The other new cutter provided for in the bill is to take the place of the late steamer *Bibb*, which vessel was sold last year, she being in need of extensive repairs and it not being considered for the best interests of the service to expend the large sum that would be required to put her in good condition. A new first-class cutter is therefore required for duty on Lake Ontario.

I consider the amount named in the bill as sufficient to construct two cutters of the class required for the waters specified, and I recommend the passage of Senate bill 1681, which is herewith returned.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

Hon. WM. P. FRYE, U. S. S.,
Chairman Committee on Commerce, U. S. Senate.

The committee, on a careful investigation of the subject, found that the *Andrew Johnson* was constructed in 1865, and that this vessel, which has done service on lakes Superior and Michigan for a period of more that twenty-five years, is now worn out and is no longer fit for service. It is absolutely necessary that the Government should construct a revenue cutter to take the place of this vessel. This necessity will be apparent when it is stated that the *Andrew Johnson* during the last six and a half years has cruised 52,553 miles, has boarded 8,105 vessels, and seized 453 vessels, which paid penalties aggregating $107,143, and that she rescued vessels having cargoes valued at $385,755, with 496 persons aboard.

However, the committee is of the opinion that there is no absolute necessity for more than one additional revenue cutter for the Great Lakes at this time, and, therefore, recommend the following amendments to the bill:

Strike out of the title the word "two" and insert the word "one," and the letter "s" out of the word "cutters."

In the third line strike out the words "two hundred and seventy-five" and insert the words "one hundred and fifty."

In the seventh line strike out the word "two" and insert the word "one;" also strike out the letter "s" in the word "cutters."

Strike out all after the word "lakes" where it appears for the first time in the eighth line and insert the words "which shall have a displacement of not less than four hundred and fifty tons, and shall be so constructed and equipped as to secure a speed of not less than fifteen knots per hour."

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 128.

BRIDGE ACROSS CADDO LAKE AT OR NEAR MOORINGSPORT, LA.

OCTOBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1919.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1919) authorizing the Texarkana and Fort Smith Railway Company to bridge Caddo Lake at or near Mooringsport, La., and Cross Bayou, near Shreveport, La., report the same back with an amendment and with the recommendation that the bill, as so amended, do pass.

In line 36 of section 1, after the word "sunrise," insert the words "throughout the season of navigation."

The object of the amendment is to require the grantees to display lights and other signals on the proposed bridge only during the season of navigation, as at other periods such lights and other signals are unnecessary. The accompanying letters of the Secretary of War and of the Chief of Engineers of the U. S. Army, of October 2, 1893, and September 29, 1893, respectively, which are made a part of this report, show that, in the opinion of the War Department, there is no objection, so far as the interests of navigation are concerned, to the passage of this bill.

WAR DEPARTMENT,
Washington, D. C., October 2, 1893.

SIR: I have the honor to acknowledge the receipt of your letter of the 16th ultimo, inclosing a copy of House bill 1919, Fifty-third Congress, first session, "Authorizing the Texarkana and Fort Smith Railway Company to bridge Caddo Lake at or near Mooringsport, La., and Cross Bayou, near Shreveport, La.," and in returning the bill beg to invite your attention to the inclosed report of the Chief of Engineers, dated the 29th ultimo, remarking that he knows of no objection to its passage, but recommending an amendment to provide for the display of lights and signals on the bridge throughout the season of navigation.

A copy of the bill with the proposed amendment is inclosed.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, U. S. ARMY,
Washington, D. C., September 29, 1893.

SIR: I have the honor to return herewith a letter dated the 16th instant from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for the views of the War Department thereon H. R. 1919, Fifty-third Congress, first session, "A bill authorizing the Texarkana and Fort Smith Railway Company to bridge Caddo Lake at or near Mooringsport, La., and Cross Bayou, near Shreveport, La.," and in reply to its reference to this office I beg to say that I know of no objection, so far as the interests of navigation are concerned, to the passage of the bill by Congress; but as there is no necessity for requiring the grantees to display lights and other signals on the proposed bridge except during the season of navigation, it is recommended that the bill be amended by inserting after the word "sunrise," in line 36 of section 1, the words "throughout the season of navigation."

A copy of the bill with the amendment proposed indicated thereon is herewith submitted.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. D. S. LAMONT,
Secretary of War.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 129.

BRIDGE OVER THE SULPHUR RIVER, IN ARKANSAS OR IN TEXAS.

OCTOBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1917.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1917) authorizing the Texarkana and Fort Smith Railway Company to bridge the Sulphur River, in the State of Arkansas, report the same back with amendments and with the recommendation that the bill, as so amended, do pass.

Amend as follows:

In line 6 of section 1, after the word "Arkansas," insert the words "or in the State of Texas."

In line 8 of section 1, after the word "line," insert the words "said point selected to be subject to the approval of the Secretary of War."

In line 42 of section 1, after the word "and," insert the words "whatever kind of bridge shall be constructed."

In line 43 of section 1, after the word "sunrise," insert the words "throughout the season of navigation."

Amend the title by inserting, after the word "Arkansas," the words "or in the State of Texas."

Accompanying letters from the Secretary of War and the Chief of Engineers, U. S. Army, of September 29, 1893, and September 28, 1893, respectively, which are made a part of this report, show that in the opinion of the War Department there is no objection to the passage of the bill as amended, so far as the interests of navigation are concerned.

WAR DEPARTMENT,
Washington, D. C., September 29, 1893.

SIR: I have the honor to return, herewith, House bill 1917, Fifty-third Congress, first session, "Authorizing the Texarkana and Fort Smith Railway Company to bridge the Sulphur River in the State of Arkansas," which was referred to this Department on the 16th instant, and beg to invite your attention to the inclosed report of the Chief of Engineers, dated the 28th instant, and to the amended copy of the bill submitted by that officer, who remarks that so far as the interests of navigation are concerned he knows of no objection to the passage of the bill by Congress as amended.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE
ON INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, U. S. ARMY,
Washington, D. C., September 28, 1893.

SIR: I have the honor to acknowledge the reference to this office of letter of the 16th instant, from the Committee on Interstate and Foreign Commerce of the House of Representatives, inclosing for War Department views thereon H. R. 1917, Fifty-third Congress, first session, "A bill authorizing the Texarkana and Fort Smith Railway Company to bridge the Sulphur River in the State of Arkansas;" and, in returning the same, I beg to recommend that the bill be amended as follows:

Section 1, in line 8, after the word "line," insert "said point selected to be subject to the approval of the Secretary of War;" in line 42, after the word "and," insert "whatever kind of bridge shall be constructed;" and in line 43, after the word "sunrise," insert "throughout the season of navigation."

A copy of the bill, with the proposed amendments indicated thereon, is herewith submitted; and as thus amended, I know of no objection, so far as the interests of navigation are concerned, to the passage of the bill by Congress.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. DANIEL S. LAMONT,
Secretary of War.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 130.

BRIDGES OVER THE CALCASIEU AND SABINE RIVERS.

OCTOBER 20, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1918.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1918) authorizing the Texarkana and Fort Smith Railway Company to bridge the Calcasieu and Sabine rivers, in the States of Louisiana and Texas, report the same back with amendments, and with the recommendation that the bill, as so amended, do pass.

Amend as follows:

Section 1, in line 10, after the word "line," insert the words "said points selected to be subject to the approval of the Secretary of War."

In line 19 of section 1 strike out the words "or fifty feet above highest water."

In line 45 of section 1, after the word "and," insert the words "whatever kind of bridges shall be constructed."

Attached hereto are letters of the Secretary of War and of the Chief of Engineers of the U. S. Army, of September 29, 1893, and September 28, 1893, respectively, which are made a part of this report, and which show that in the opinion of the War Department, if these amendments be adopted, there is no reason, so far as the interests of navigation are concerned, why this bill should not pass.

WAR DEPARTMENT,
Washington, D. C., September 29, 1893.

SIR: I have the honor to return herewith House bill 1918, Fifty-third Congress, first session, "authorizing the Texarkana and Fort Smith Railway Company to bridge the Calcasieu and Sabine rivers in the States of Louisiana and Texas," which was referred to this Department on the 16th instant, and to invite your attention to the inclosed report of the Chief of Engineers, dated the 28th instant, and to an amended copy of the bill submitted by that officer, who remarks that so far as the interests of navagation are concerned he knows of no objection to its passage by Congress as amended.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., September 28, 1893.

SIR: I have the honor to acknowledge the reference to this office of letter of the 16th instant from the Committee on Interstate and Foreign Commerce of the House of Representatives inclosing, for the views of the War Department thereon, H. R. 1918, Fifty-third Congress, first session, "A bill authorizing the Texarkana and Fort Smith Railway Company to bridge the Calcasieu and Sabine rivers in the States of Louisiana and Texas," and, in returning the same, I beg to recommend that the bill be amended as follows:

Section 1, in line 10, after the word "line" insert "said points selected to be subject to the approval of the Secretary of War;" in line 19, strike out the words "or fifty feet above highest water;" and in line 45, after the word "and" insert "whatever kind of bridges shall be constructed."

A copy of the bill amended as proposed is herewith submitted, and as thus amended I know of no objection, so far as the interests of navigation are concerned, to its passage by Congress.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. D. S. LAMONT,
Secretary of War.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 131.

HIRAM WALKER.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Hiram Walker, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim years ago was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of the opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication, and ought not to be disturbed.

If the petitioner could not in the past, and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 132.

ARDEN THOMPSON.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Arden Thompson, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim years ago was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 133.

SALLY H. TOMPKINS.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Sally H. Tompkins, praying that her claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim years ago was investigated by the Qaurtermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past and upon an *ex parte* statement in her favor, adduce sufficient evidence of her loyalty to convince the Quartermaster-General, there is no reason for believing that she would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that her petition be placed on file.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 134.

CHARLES WALKER.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Charles Walker, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim, years ago, was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of every one concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past, and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 135.

H. A. YEAGER.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of H. A. Yeager, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration and find that this claim, years ago, was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected, because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Govermen.t at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 136.

HENRY AMICK.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Henry Amick, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration and find that this claim years ago was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past, and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 137.

RUSSELL G. TRUMP.

OCTOBER 23, 1893.—Laid on the table and ordered to be printed.

Mr. GOLDZIER, from the Committee on War Claims, submitted the following

ADVERSE REPORT:

[To accompany petition.]

The Committee on War Claims, to whom was referred the petition of Russell G. Trump, praying that his claim against the United States be referred to the Court of Claims, have had the same under consideration, and find that this claim years ago was investigated by the Quartermaster-General of the United States, under authority conferred on him by the act of July 4, 1864, and that as a result of such investigation this claim was rejected because the proof of loyalty was not deemed sufficient.

The committee are of opinion that this decision, made by the proper officer at a period when the facts concerning the question at issue must have been much fresher in the minds of everyone concerned, should be treated as an adjudication and ought not to be disturbed.

If the petitioner could not in the past and upon an *ex parte* statement in his favor, adduce sufficient evidence of his loyalty to convince the Quartermaster-General, there is no reason for believing that he would be more successful now. On the other hand, should this matter be litigated in the Court of Claims the Government at this late date would be unable to properly defend against this claim, and thus would be placed at the mercy of any claimant who should succeed, thirty years after the close of the war, in adducing evidence of his loyalty which was not adducible eight or ten years after the war.

The committee recommend that the prayer of the petitioner be denied and that his petition be placed on file.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 138.

FEES OF THE CLERK OF THE UNITED STATES COURT FOR INDIAN TERRITORY.

OCTOBER 24, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. BAILEY, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 4186.]

The Committee on the Judiciary have had under consideration House bill 4186, and respectfully recommend its passage.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 139.

NATURALIZATION LAWS.

OCTOBER 24, 1893.—Referred to the House Calender and ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3299.]

The Committee on the Judiciary having had under consideration the bill (H. R. 3299) entitled "a bill to amend the naturalization laws of the United States," report the same back to the House with the following amendments, and thus amended your committee recommends the passage of the bill.

Amend section 2, by inserting in line 11, after the words "has since resided at ," the following, "and now resides at ," (particularly describing the place of residence).

Also amend section 3 by inserting in line 29, after the words "United States," the following:

There shall be allowed and taxed as a part of the costs in each case a fee of three dollars to the United States district attorney or his assistant, the State's prosecuting attorney, or his assistant, for representing the Government in such case.

The bill was favorably reported by your committee in the Fifty-second Congress. The following report then made is hereby adopted:

The provisions of the bill are as follows:

Section 1 provides that no alien who has ever been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, or who is an anarchist or polygamist, or who immigrated to the United States in violation of any of their laws, or who can not read the Constitution of the United States, shall be naturalized by any court; nor unless he has resided continuously for five years next preceding his application within the United States, and for one year in the State, District, or Territory in which the application is made. That no class are by this act made eligible to naturalization who are ineligible by existing law, except Indians who have adopted the customs and manners of civilized life and severed their tribal relations.

Section 2 prescribes a form of petition for naturalization and its verification.

Section 3 provides for the docketing and hearing of such petitions, and for the United States to be represented thereon by the district attorney or public prosecutor, who shall deny its allegations and require proof thereof to the satisfaction of the court, and prescribes, as far as practicable, the measure and credibility of the proof.

Section 4 prescribes a penalty for swearing falsely to such petition or to any material allegation thereof of the hearing.

Section 5 confers jurisdiction upon and specifies the courts to hear the petitions for naturalization. In this there is some restriction of the present law.

Section 6 provides that aliens who have filed their declaration of intention to become citizens before the approval of this act shall not be affected by its provisions.

Section 7 provides that any alien who is eligible to naturalization, except as to the requirement of five years' residence, may take a homestead on the public lands by setting forth his alien condition and intention to become a citizen in his application for the entry thereof; but that no patent shall issue to him until he is legally naturalized. Said section repeals subdivisions 1 and 2 of section 2165, Revised Statutes, and other laws in conflict with the bill. The declaration of intention,

the fruitful source of the major part of the evils and frauds practiced on the law, is abolished.

Some of the reasons which influence the committee to recommend the passage of this bill are as follows: The loose manner in which aliens have been naturalized in many places of late years has been most shameful, and in utter disregard of the requirements of our laws, although they are entirely too liberal and inefficient in their provisions. Naturalization of aliens recently arrived from abroad, and knowing nothing of our institutions and Government, just before elections, for the purpose of making voters, has been resorted to in several localities. In States where only the declaration of intention to become a citizen is an essential qualification of the alien to make him a voter, have the greatest frauds and most unblushing violations of the spirit of the law been perpetrated. The bill, however, does not touch the qualification of voters, except incidentally, as that power resides in the States.

The investigations made by the Ford committee, in the Forty-ninth Congress, developed the fact, as shown by the testimony taken, that in Brooklyn one of the courts was used by imposition and fraud for naturalization purposes by a combination of lawless men, who would naturalize and thus make a full-fledged citizen out of any alien, within three days after he landed, for the consideration of $25.

Under a resolution adopted by the House of Representatives the 1st day of April, 1890, instructing the Committee on the Judiciary to investigate certain alleged illegal practices of United States courts and officials connected therewith, your committee, through a subcommittee composed of Hons. A. C. Thompson, of Ohio, H. C. McCormick, of Pennsylvania, and William C. Oates, of Alabama, among other matters investigated, found, and reported to the House the following facts in regard to the naturalization of aliens in the courts of the United States at Boston, Mass.:

The circuit court there has a clerk with two deputies, and the district court also has a clerk with two deputies.

Some few years ago, to remedy the loose practice which prevailed in the State courts in the matter of naturalizing aliens, the legislature of that State passed an act to regulate the practice in its own courts, and to require greater vigilance in the detection of fraud and stricter proof of the right to receive the great benefit of being adjudged a citizen of the United States. When this law was put into practice aliens no longer applied to the State courts, with rare exceptions, but went from all parts of the State, and even from some adjacent States, to Boston, where they found in the United States courts much more convenient methods of accomplishing their purposes.

They found, from the testimony of the clerks, their deputies, and Judge Nelson of the district court, the following practice to prevail:

An alien, wishing to be naturalized, and frequently great numbers of them together, are in the habit of applying to one of these clerks, or one of his deputies, who are provided with blanks printed at the expense of the Government, setting forth all the requirements of the law, which are filled up and sworn to by the applicant. This is deemed a sufficient declaration of intention, and for this work, if the clerk fills out the blank, he charges a fee of $2, but if the applicant comes in with the blank already filled, the clerk charges $1 for administering the oath. When aliens apply to become fully naturalized, the blanks are filled both for the applicant and the witnesses which he brings with him, and then the clerk or deputy, as the case may be, proceeds with the applicant and his witnesses, and sometimes quite a number of applicants at the same time, into the court room when the court is not in session, or to the door of the court room if it be in session, and in either case he says to the applicant and his witnesses, "Now, you are in the presence of the court," and administers the oath to him and his witnesses, retires to his office, issues the necessary certificate, and, if he fills the blank, he charges the applicant a fee of $4, but if the applicant brought in his papers already filled, the fee is but half that sum. The judge's attention, even when present and holding court, is never called to the matter at all, unless the clerk gets up a doubt as to whether the applicant is entitled to be naturalized, and then he refers the matter to the judge, which is not of very frequent occurrence.

Just before elections are to be held, when there is a great pressure of applicants for naturalization, backed up by committees from the different political parties, the judges give in such cases some personal attention to these matters, but usually the applicants are put through and adjudged to be citizens of the United States by the clerk or his deputies, in the absence of the judge and without his knowledge. Neither is it the practice in such courts to make any investigation of who the witnesses are, or whether they are worthy or unworthy of credit. Any two witnesses are generally accepted as competent and credible to prove up ten cases, but the clerks say they refuse to take the testimony of the same two witnesses for more than ten applicants at one time. What a ridiculous farce! The making of citizens out of aliens, which should be a grave judicial proceeding in the exercise of a constitutional function, is left by the courts to its mere ministerial officers who can

not exercise judicial power, but run the machine merely for the fees they can make out of it.

Boston, however, is not the only place where the naturalization of aliens is treated as a merely formal or clerical matter, which requires no judicial investigation; it is the rule rather than the exception. If the making of citizens of this great country is of no greater moment why not abolish it altogether and extend the privileges of citizenship to all who come to reside among us? A thing which is worth doing at all, is worth doing well. In Congress is vested the power to make laws upon the subject of naturalization. The States have no power to legislate on the subject. Congress should therefore make such laws as will amply protect the State against the citizenization of criminals, paupers, anarchists, and aliens who are unworthy of a residence and much less the citizenship of the United States or of a State. Under the very liberal immigration laws, which are administered with great laxity, over a half million of immigrants are landed on our shores. While about 50 per cent of them are desirable, and aid by their industrious and economical habits to develop our latent wealth, yet these are dearly paid for by the imposition upon the States and the great municipalities where the other 50 per cent congregate. Among them are moral and, frequently, physical lepers, whose practices and methods of life contaminate all who come in contact with them, and are horrible examples of moral turpitude to our young native Americans.

The testimony taken by the Ford committee shows that 75 per cent of all the inmates of the lunatic asylums and poorhouses are of foreign birth.

These States and communities should receive at least the protection of Congress against the making of such creatures citizens of this country. The name "American citizen" should be esteemed as was that of "a Roman" when Rome was the mistress of the world.

Such pride can never be felt by our foreign-born citizens, with but few exceptions, until the process of conferring this great boon upon an alien is attended with more solemnity and scrutinized more closely than at present, and to this end the committee recommend the passage of the bill. Its provisions are liberal and do not prohibit any person worthy to become a citizen of that great privilege. It, of course, requires more to be done by an alien to become a citizen than is required by existing law. The existing law and its administration is in many parts of the country a travesty of judicial proceedings.

The following table, recently obtained from the Census Bureau, is of interest upon this subject:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
Washington, D. C., March 11, 1892.

DEAR SIR: In response to your request, made some time since, I beg leave to hand you a statement which shows for foreign-born males 21 years of age and over the number that are aliens, those that are naturalized, those that have taken out naturalization papers, and those of whom it is unknown as to naturalization. Of the aliens, English or other language is specified. These details are given for the New England States, the States of New York and Delaware, Maryland, District of Columbia, Virginia, and West Virginia.

Very respectfully,

A. F. CHILDS,
Acting Superintendent of Census.

Hon. WILLIAM C. OATES,
House of Representatives, Washington, D. C.

States.	Foreign-born males 21 years and over.	Aliens.			Naturalized.	Naturalization paper.	Unknown.
		Total.	Speak English.	Other language.			
Maine	30,470	15,670	12,959	2,711	11,128	558	3,114
New Hampshire	260,047	13,037	9,431	3,606	10,131	688	2,191
Vermont	19,686	8,120	7,103	1,017	9,243	496	1,827
Massachusetts	257,094	118,508	102,650	15,858	112,504	6,541	19,541
Rhode Island	40,185	20,004	16,966	3,038	15,605	1,554	3,022
Connecticut	78,328	28,525	22,351	1,174	38,729	2,098	8,976
New York	685,462	192,814	129,645	63,169	416,362	22,739	53,547
Delaware	6,152	2,094	1,579	515	3,494	115	449
Maryland	42,589	11,083	7,341	3,742	26,322	1,394	3,790
District of Columbia	9,242	1,833	1,688	145	5,617	163	1,629
Virginia	11,313	3,056	2,177	879	6,739	175	1,343
West Virginia	9,789	1,822	1,186	636	6,326	204	1,437

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 140.

AMENDING SECTION 1058 OF THE REVISED STATUTES OF THE UNITED STATES.

OCTOBER 24, 1893.—Ordered to be printed.

Mr. STOCKDALE, from the Committee on the Judiciary, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3758.]

The Committee on the Judiciary reports back to the House House bill 3758 with the recommendation that it do not pass.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 141.

AMENDING SECTION 5391, REVISED STATUTES.

OCTOBER 24, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. LAYTON, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 3981.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3981) to amend section 5391 of the United States Revised Statutes, submit the following report:

This bill is, substantially, a reënactment of the existing law, viz, section 5391 of the Revised Statutes of the United States, passed April 5, 1866, with slight changes in the phraseology.

It provides, in substance, that the laws of the respective States in which reservation or places under exclusive jurisdiction of the United States are located, relative to certain minor offenses, shall be applicable to such reservation or places, and offenses therein may be proceeded against under such laws in the United States court having jurisdiction.

It has been judicially determined that the present law is operative to put in force only the laws of such States as existed at the time of the last enactment of said section 5391, viz, April 5, 1866; hence the necessity of this reënactment, so as to apply to all such reservations and places in States admitted into the Union since the last-mentioned date.

Your committee report the bill favorably, with a recommendation that it do pass with the following amendments:

Insert after the word "States," in the title of the bill, the following words, "relating to the punishment of certain minor offenses in reservations or places over which the United States has exclusive jurisdiction."

Strike out the words "such offense," in the eleventh line, and insert in lieu thereof "any person so committing the same."

Strike out the word "existing," in the fourteenth line, and insert the words "now in force," at the end of said fourteenth line. Said section, as amended, will then read as follows:

A BILL to amend section fifty-three hundred and ninety-one of the Revised Statutes of the United States, relating to the punishment of certain minor offenses in reservations or places over which the United States has exclusive jurisdiction.

SEC. 5391. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any offense be committed in any place, jurisdiction over which has been retained by the United States or ceded to it by a State, or which has been purchased with the consent of a State for the erection of a fort, magazine, arsenal, dock yard, or other needful building, the punishment for which offense is not provided for by any law of the United States, any person so committing the same shall, upon conviction in a circuit or district court of the United States for the district in which it was committed, be liable to and receive the same punishment

as the laws of the State in which such place is situated now in force provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any such prosecution.

This legislation is approved and recommended by the Secretary of War and the Attorney-General also, as shown by copy of Executive Document No. 14, this Congress, hereto attached, marked Exhibit A, and by letter of the Attorney-General, dated October 20, 1893, hereto attached, marked Exhibit B, and both made part of this report.

EXHIBIT A.

[House Ex. Doc. No. 14, Fifty-third Congress, first session.]

WAR DEPARTMENT,
Washington, D. C., October 6, 1893.

SIR: I have the honor to transmit herewith a copy of a letter dated January 20, 1893, from the commanding officer at Fort Logan, Colo., reporting the result of a prosecution instituted against W. E. Curran *et als.* for an offense committed on that military reservation on July 8, 1890, the offense being an aggravated assault on three laundrymen, employed at the post, by a party of citizens who entered upon the reservation, seized the men, and treated them in a brutal manner for the ostensible purpose of extorting a confession of theft. Copies of papers accompanying the letter of the post commander are also transmitted. It appears from the papers that the offending citizens were arrested with a view to being brought to trial for a violation of section 5391 of the Revised Statutes, which is as follows:

"SEC. 5391. If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to, and receive, the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States."

But, as will be seen from the copy of the decision rendered by Mr. Justice Hallett in the district court of the United States for the district of Colorado on December 23, 1892, the motion to quash the indictment against them was sustained, for the reason that at the time of the enactment of section 5391 Colorado was not then a State in the Union, and that none of its laws were adopted or put in force by this section, and that consequently the section will never be operative in Colorado to put in force the laws of the State in respect to crimes committed on Government reservations unless reënacted.

Concurring in the views of the Acting Judge-Advocate-General and the Major-General Commanding the Army, as shown in the accompanying copies, I have the honor to submit, with a recommendation for favorable legislation by Congress, a draft of an act reënacting section 5391, so as to make it applicable alike to all military reservations, whether in new or old States, or whether in Territories, and which will also be applicable to States hereafter admitted into the Union.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

OFFICE OF THE POST COMMANDER,
Fort Logan, Colo., January 20, 1893.

SIR: I have the honor to inclose herewith a communication received from United States Attorney John D. Fleming, district of Colorado, reporting the result of a prosecution instituted against W. E. Curran *et al.* for an offense committed on this military reservation July 8, 1890.

The offense was a peculiarly aggravated assault on three Chinese laundrymen, employed at this post, by a party of citizens under the lead of one W. E. Curran, who entered the reservation at night, seized upon the Chinamen, took them in a

wagon about a mile from the post to the place of residence of said Curran, where the Chinamen were repeatedly hanged up by their necks in a most brutal and cruel manner, the rope marks being plainly visible for weeks afterwards.

The ostensible purpose and motive on the part of the assailants was to extort a confession of theft of certain articles of jewelry alleged to have been sent to the laundry, accidentally, with clothing by Mrs. Curran.

It appears to me the defenseless condition of this reservation, and apparently many others, against crimes of this nature, as appears from the decision of the court set forth, demands the early attention of Congress, and I request that proper action may be taken to that end.

Very respectfully, your obedient servant,

H. C. MERRIAM,
Colonel Seventh Infantry, Commanding Post.

The ADJUTANT-GENERAL, U. S. ARMY,
Washington, D. C.
(Through Headquarters Department of the Platte.)

[Third indorsement.]

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., February 4, 1893.

Respectfully returned to the Adjutant-General for the Major-General Commanding the Army.

That a brutal, aggravated assault and battery, such as is here described, can, under existing law, be committed with impunity on a military reservation, exclusive jurisdiction over which has—as in the case of Fort Logan, Colo.—been ceded to the United States, certainly indicates a gross failure of justice which calls for prompt discontinuance.

This end may be attained on all reservations within States now in existence by reënacting section 5391, Revised Statutes. By that means the laws now in force in the various States would be adopted by the United States and made United States laws for the reservations in their respective States, just the same as if they were taken up one by one and passed in the usual way by Congress and approved by the President. It would not only supply the reservations in new States- such as Fort Logan Reservation in Colorado—with such laws as are needed of the character under consideration, but it would bring the laws on reservations in old States down to date, as it were.

By the enactment of section 5391 the State laws that were in force at the time of the enactment were made United States laws on the reservations. But since that time the States have, in many instances, changed their laws, so that now the laws of the States are in many respects different from the laws in force on the reservations in those States. The States could not change the laws on the reservations, of course, because they have no jurisdiction over them, and therefore the laws on the reservations adopted by the enactment of section 5391 have stood as they were, while the laws of the States in which they are located have been undergoing a change to keep up with the progress of the times. And it is now desirable to abandon and repeal the laws adopted by the enactment of section 5391 and adopt in lieu of them the laws of the respective States now in force. As indicated above, this may all be done by putting the substance of that section into the form of a bill and enacting it into law at this time.

The only other adequate remedy for the evils under consideration would be the enactment by Congress of a full penal code of the United States for the reservations, etc., over which the United States has jurisdiction.

One objection to the latter course would be the almost certain failure to foresee, and provide for, all offenses that the code ought to cover; and another—which, by the way, may or may not be well founded—would be that the laws of the reservations would in many instances be different on given subjects from those of the Territory or the State that immediately surrounded the reservations. But, on the other hand, it might be said in favor of such a code that it would secure a uniformity of laws on the reservations. We would then have the same law on a reservation in Virginia that we would have on a reservation in North Dakota.

It is recommended that the Secretary of War cause the subject to be brought to the attention of Congress, with a view to adequate legislation.

In its absence our military reservations in the new States—too extended to be effectually patrolled by the military force—will remain open to the incursions of ruffians, etc., and those in the old States will only have the advantage of the laws in force in the various States at the time of the enactment of the said section 5391.

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

HEADQUARTERS OF THE ARMY,
Washington, February 11, 1893.

Respectfully submitted to the Secretary of War, concurring in the recommendation of the Acting Judge-Advocate-General, with the suggestion that in the reënactment of section 5391 the penalty imposed for the offense should be that provided for the like offense when committed within the jurisdiction of the State by the laws in force at the time the offense is committed, instead of by the laws "now in force."

J. M. SCHOFIELD,
Major-General Commanding.

WAR DEPARTMENT, *February 21, 1893.*

Respectfully returned to the Acting Judge-Advocate-General, to prepare a bill for presentation to Congress which shall meet the case.

If practicable, and if it can be accomplished by a short bill, it would be better to have a law which would be applicable alike to all military reservations, whether in new or old States, or whether in Territories, and which will also be applicable to States hereafter admitted.

As it is not likely that the present Congress will act upon a new bill, there will be time for a thorough examination and preparation.

L. A. GRANT,
Assistant Secretary of War.

[Seventh indorsement.]

WAR DEPARTMENT,
JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, D. C., September 29, 1893.

Respectfully returned to the Secretary of War.

Attention is invited to the accompanying report and draft of proposed legislation, prepared in accordance with the directions of the Assistant Secretary of War, contained in the foregoing indorsement.

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

UNITED STATES ATTORNEY'S OFFICE,
DISTRICT OF COLORADO,
Denver, Col., January 18, 1893.

SIR: On Friday December 23, ultimo, in the United States district court at Denver, Judge Hallett granted a motion to quash the indictment in the case of the men charged with the assault upon the Chinamen upon the reservation at Fort Logan. As I have before had some correspondence with you in this matter, and knowing your interests in the case, I have had a copy of the opinion of Judge Hallett made, dismissing the charge, which opinion I send you herewith. It is very brief, but I think correctly states the law upon the question, as further investigation, subsequent to the indictment, convinces me.

First, it should be remembered that *there is no law in the United States statutes* directly providing punishment for minor offenses when committed by one private person against another in places under the exclusive jurisdiction of the General Government. Recourse, therefore, was had in the indictment in question to that general provision of the Revised Statutes of the United States found in section 5391, which in effect provides that in such cases we may proceed under the laws of the State against such offenders.

Accordingly I had Curran and others indicted under the State statute by the Federal grand jury for (1) riot, (2) assault (aggravated by beating and wounding the Chinamen, etc.), (3) false imprisonment, etc.

Now comes the court and says that section 5391, Revised Statutes, United States, is operative to put in force only the laws of such States as existed at that time of the enactment of said section 5391. The effect is, you plainly see from the decision, to make that law in some of the older States (Massachusetts, say) which is not law in Colorado, or Montana, or any of the newer States.

It is this peculiarity which leads me to address you at this length; to the end, if you think it necessary, as I certainly do, that appeal may be made to Congress, through your own or the proper Department, for the reënactment of section 5391 of the Revised Statutes of the United States, whereby the existing laws of the State of Colorado may be made available for the punishment of offenses committed on your reservation. As the law now is, only murder, and perhaps a few of the more serious

crimes, can be punished in the civil courts when the offense is committed there. I send you inclosed a copy of a recent Montana decision (United States *v.* Barnaby), in which substantially the same question as ours arose, and was similarly disposed of.

I write this note hurriedly, and would be glad that it be shown, if convenient, to Capt. Quentin, of your post, who also took an interest in the case of the unfortunate Chinamen.

The decision, I may add, of Judge Hallett finally disposed of the present offenders. It is to be hoped that in the future the state of the law may be such as to fitly punish all who imitate Curran and his crowd.

Very respectfully,

JOHN D. FLEMING,
United States Attorney for Colorado.

Col. H. C. MERRIAM,
Fort Logan, Colo.

In the district court of the United States for the district of Colorado, December 23, 1892.

HALLETT, J. (orally): The United States against William E. Curran and others is a prosecution for inciting a riot and committing an assault upon certain Chinamen on the reservation at Fort Logan.

This is alleged to be in violation of a law of the State, which is put in force by section 5391 of the Revised Statutes of the United States. This section was enacted first in 1825 and again in 1866, and it refers to the laws of States then existing. The act was so construed in Paul's Case, 6 Peters, 141 (U. S. Supreme Court).

As Colorado was not then a State in the Union, none of its laws were adopted or put in force by this act. This section will never be operative in Colorado to put in force the laws of the State in respect to crimes committed on Government reservations unless reënacted.

The motion to quash will be sustained.

UNITED STATES *v.* BARNABY.

[Circuit court, D. Montana. June 7, 1892.]

KNOWLES, *District Judge.* The defendant was charged in the indictment in this case with an assault with the intent to commit murder. He was tried and by the jury found guilty of this offense. Counsel for defendant now come into this court and move the court that the judgment herein be arrested. Among the grounds for this motion are that the indictment alleges no offense known to the laws of the United States; that for the crime alleged in the indictment and proven at the trial there is no punishment provided by the United States laws. Upon an examination of the statutes of the United States, I find no such crime named as an assault with the intent to commit murder. There is a punishment provided in the 5342d section of Revised Statutes of United States for the crime of an attempt to commit murder or manslaughter by any means not constituting an assault with a dangerous weapon. I suppose the meaning of this latter clause, not constituting an assault with a dangerous weapon, means nothing more than that the attempt to commit murder must amount to something more or different from that of an assault with a dangerous weapon, because such an assault is made a crime of itself. In the crime of an attempt to commit murder, or an assault with the intent to commit murder, there is the ingredient of malice aforethought, express or presumed. When this ingredient in a crime exists, although the assault may be accompanied with the use of a deadly weapon, I should think there would be no difficulty in maintaining a proper charge of an attempt to commit murder. The facts stated would constitute something more than an assault with a deadly weapon, and not that alone. The indictment in this case charges that the defendant made an assault with a knife upon one Alexander Ashley with the intent him to kill willfully, feloniously, and of his malice aforethought. There is no charge that the defendant struck Ashley with this knife or inflicted upon him any wounds or battery which would have had the tendency to produce death. There are no allegations as to the character of the knife used. The question is then presented as to whether the indictment shows sufficient to warrant the court in saying that it appears that the crime of an attempt to commit murder is presented. "The word 'attempt' signifies both the act and the intent with which the act is done." (2 Bish. Crim. Proc., sections 88, 89.) In speaking of an

indictment for an attempt, the same author says (section 92): "The attempt may be a crime or may not be, and the indictment should state such facts as will enable the court to say whether the particular attempt constitutes a crime or not." An "assault" is generally defined to be an unlawful attempt coupled with a present ability to commit a violent injury upon the person of another. When a simple assault is alleged, a court can not judicially see whether or not it is of such a nature, if consummated, death would ensue. From the very nature of the definition it will be seen that a court can not see from such a charge that it involves an act which would effectuate the purpose alleged. 1 Whart. Crim. Law, section 190, says: "In indictments for attempts the laxity in assaults will not be maintained." That author gives as a reason for this that the term "assault" is one "which describes an act easily defined, and asserts a consummated offense;" while "'attempt' is a term peculiarly indefinite." "It has no prescribed legal meaning; it relates, from its nature, to an unconsummated offense." Again, he says, in section 192: "On the same reasoning, in an indictment for an attempt to commit a crime, it is essential to aver that the defendant did some act which, directed by a particular intent to be averred, would apparently result, in the ordinary and likely course of things, in a particular crime." The same rule is expressed, in effect, in section 749 *et seq.*, 2 Bish. Crim. Law. It will be seen from these authorities that there were not sufficient facts set forth in the indictment in this case to warrant the court in holding that the attempt to commit murder or manslaughter was charged. Generally the crime of assault with the intent to commit murder is defined by statute law. When so defined, if the indictment follows substantially the language of the statute in charging the offense, it will generally be sufficient, but when not so defined facts must be alleged which will make the crime judicially appear.

The question arises as to whether or not the crime of an assault does not appear sufficiently in the indictment. It is charged that the defendant made an assault upon Ashley. There is, however, no punishment provided for a simple assault committed in a place within the exclusive jurisdiction of the United States except in specified cases, of which the one under consideration is not classed. There is a punishment provided for an assault committed by one belonging to the Navy, which is to be decreed by a court-martial; there is a punishment provided for an assault committed upon a public minister; an assault upon the high seas is punished; one committed by a person in the Army, in time of war, or upon a superior officer in the Army, or upon a letter carrier, or on officers by seamen, or upon an officer authorized to execute process, or upon a custom-house officer when in the execution of duty, is each punished by provisions of statute. It will be seen that the special instances here named do not include an assault of one person upon another in any such place as an Indian reservation. It is a settled rule in Federal jurisprudence that there are no common-law offenses against the United States, and that no punishment can be inflicted for any common-law offenses unless the punishment therefor is specially provided for by Congress. It is claimed, however, that there are two statutes of the United States which provide for the punishment of the crime in question. The first of these is found in 23 Statutes at Large, p. 385, section 9, and is as follows:

"That immediately upon and after the date of the passage of this act all Indians committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny, within any Territory of the United States, and either within or without an Indian reservation, shall be subject therefor to the laws of such Territory relating to said crimes, and shall be tried therefor in the same courts and in the same manner, and shall be subject to the same penalties, as are all other persons charged with the commission of said crimes, respectively; and the said courts are hereby given jurisdiction in all such cases. And all such Indians committing any of the above crimes against the person or property of another Indian or other person within the boundaries of any State of the United States, and within the limits of any Indian reservation, shall be subject to the same laws, tried in the same courts and in the same manner, and subject to the same penalties as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States."

Montana has ceased to be a Territory, and hence the first part of the above section does not apply. As I have shown, the punishment for the crime of an assault with intent to commit murder or manslaughter, nor the crime of assault, except in enumerated cases, is not established by a United States statute, although committed within a place within the exclusive jurisdiction of the United States. An assault with intent to kill is not the same offense as an assault with the intent to commit murder. There may not exist in the former the element of malice aforethought; there may be an unlawful and intentional killing, which does not amount to murder. (State *v.* Hill, 4 Dev. and B., 491, Hor. and T. Cas., 199; Com. *v.* Drum, *Id.*, 190.) If an assault with the intent to kill was the same crime as an assault with the intent to commit murder, no punishment is provided for either.

The second of the statutes before alluded to is as follows:

"If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to and receive the same punishment as the laws of the State in which such place is situated, now in force, provided for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States." (Section 5391, Rev. Stat. U. S.)

This statute has been construed by the Supreme Court in the case of United States *v.* Paul, 6 Pet., 141, and held to apply to State statutes punishing crimes which existed at the time of the passage of this statute. This decision has at no time been reversed or doubted by that court, and was a contemporaneous judicial construction of the same, and should be adhered to. Considering the language of the statute (and I do not see how any other conclusion could be reached), Congress might be willing to adopt the laws of a State which existed at the time of the passage of a statute by it, but would hardly be willing beforehand to adopt all the criminal statutes a State might in future enact. A statute to this effect might be classed as delegating legislative authority, which is not proper. This statute was passed in 1825. But the construction contended for, namely, that it applied to any laws which might exist in any State, at any time when a place might be ceded by it to the United States, brings us to no different conclusion. In the case of the United States *v.* Kagama (118 U. S., 375; 6 Sup. Ct. Rep., 1109) the Supreme Court, in speaking of Indian tribes, said:

"They were and always have been regarded as having a semiindependent position when they preserved their tribal relations, not as States, not as nations, not as possessed of the full attributes of sovereignty, but as a separate people, with the power of regulating their internal social relations, and thus far not brought under the laws of the Union or of the State within whose limits they resided."

This view was largely supported by the cases of Cherokee Nation *v.* Georgia, 5 Pet., 1; Worcester *v.* Georgia, 6 Pet., 515. The evidence in this case showed that the defendant and the witness, Ashley, upon whom the offense was committed, were both members of the Flathead tribe of Indians, under the charge of an Indian agent. It is safe, therefore, to assert that Montana could pass no criminal statute affecting the members of this Indian tribe in their relations with each other, and that it has not done so. In the case of United States *v.* Kagama, *supra*, the Supreme Court said of Indians occupying such relations as these Indians: "They owe no allegiance to the State, and receive from them no protection." I do not say that when an Indian commits a crime against a white man within the State and off of a reservation he can not be punished by the laws of the State where the offense was committed, but the State can not regulate in any manner the social relations of the members of an organized Indian tribe among themselves. There was then no law of Montana touching this crime at the time the Flathead Indian Reservation was ceded, if ever, to the United States. I hardly think that the agreement by which the United States retained jurisdiction over the Flathead Indian Reservation can be called a ceding to the United States of the same. For these reasons I find that the defendant committed no crime for which this court can enter a judgment punishing him. As the Government of the United States has undertaken to control Indians by laws, and has left them no longer to be controlled by their tribal rules and regulations, it is to be regretted that an adequate and proper code of laws to this end has not been enacted by Congress. This attempt to adopt Territorial and State laws may be classed as indolent legislation, not well adapted to producing order upon Indian reservations, or in those places under the exclusive jurisdiction of the General Government, and allowing men guilty of crimes, demanding in all civilized governments punishment, as in this case, to escape their just deserts. The motion in arrest of judgment is sustained, and the defendant discharged from custody.

WAR DEPARTMENT, JUDGE-ADVOCATE-GENERAL'S OFFICE,
Washington, September 29, 1893.

SIR: Section 5391 of the Revised Statutes of the United States is as follows:

"If any offense be committed in any place which has been or may hereafter be ceded to and under the jurisdiction of the United States, which offense is not prohibited, or the punishment thereof is not specially provided for, by any law of the United States, such offense shall be liable to and receive the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any prosecution for such offense in any court of the United States."

This is taken from an enactment of April 5, 1866. In 1832 the Supreme Court (in United States *v.* Paul, 6 Peters, 141), passing upon a similar act of March 3, 1825, said that it was to be limited to the laws of the States in force at the time of its enactment.

In 1892 the circuit court for the district of Montana in the case of United States *v.* Barnaby (51 F. R., 20) followed the decision of the Supreme Court in United States *v.* Paul, and the district court for the district of Colorado held similarly in the United States *v.* Curran and others indicted in 1892 for riot and assault.

That is to say, as the law is held to be the only criminal law in force on a place under such jurisdiction of the United States is such criminal law of the United States as may be applicable, and if it is a place jurisdiction over which has been ceded to the United States by a State existing in 1866, the laws of the State in force at that time. So that, as in the Montana and Colorado cases referred to, the criminal laws of the State can not be enforced over the ceded territory because the States were not in existence at the time of said enactment. And in State which were in existence at that time the criminal laws adopted in such States since then can not, under the legislation as interpreted by the courts, be extended over such territory. In the Montana and Colorado cases riot and assault were thus held not punishable.

It is evident, therefore, that the law needs amendment. It is regarded as impracticable for Congress to enact a full penal code to apply to such territory, but appears to be very much better to supplement (as was done in 1825 and 1866) the laws of the United States with the existing laws of the States. What seems to be most desirable now is to bring the legislation contained in section 5391 of the Revised Statutes to date. If, however, that should be done by a separate piece of legislation, it is evident that it would from year to year fall behind the State legislation, so that in time there would arise a difficulty similar to that now existing. This can not be provided for by adopting beforehand all the criminal laws of a State which shall be in force at the time of the commission of the criminal act, because that would be a delegation by Congress of its legislative power to the States. In order to overcome this difficulty it is suggested that a provision somewhat like section 5391 should be annually enacted that would incorporate the State legislation from year to year.

I submit herewith the draft of such legislation and recommend that steps be taken to have it placed in the next sundry civil expenses act under the head of "Judicial, United States courts," to be every year reënacted therein.

Very respectfully, your obedient servant,

G. NORMAN LIEBER,
Acting Judge-Advocate-General.

The SECRETARY OF WAR.

If any offense be committed in any place, jurisdiction over which has been retained by the United States, or ceded to it by a State, or which has been purchased with the consent of a State for the erection of a fort, magazine, arsenal, dock yard, or other needful building, the punishment for which offense is not provided for by any law of the United States, such offense shall, upon conviction in a circuit or district court of the United States for the district in which it was committed, be liable to and receive the same punishment as the laws of the State in which such place is situated, now in force, provide for the like offense when committed within the jurisdiction of such State; and no subsequent repeal of any such State law shall affect any such prosecution.

EXHIBIT B.

DEPARTMENT OF JUSTICE,
Washington, D. C., October 20, 1893.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, inclosing House bill amendatory of section 5391 of the Revised Statutes of the United States, copy of letter from the Secretary of War of date October 6, 1892, to the Speaker of the House of Representatives, and copy of letter of January 20, 1893, from Col. H. C. Merriam, Seventh Infantry, commanding at Fort Logan, Colo., to the Adjutant-General, U. S. Army, together with various indorsements thereon, upon which you ask my opinion as to the necessity of the proposed amendment.

In reply I beg leave to state that I have considered with care your letter and inclosures, and find that the question presented is one to which the attention of this *Department* has been heretofore directed—the inadequacy of existing statutes of

the United States to secure the punishment of persons committing certain offenses in places where the General Government possesses jurisdiction, and am of the opinion that legislation is urgently required to remedy this defect in the law. The practical result of this want of effective legislation is so clearly shown by the occurrence referred to in the communications from the Secretary of War and Col. Merriam that further demonstration of the necessity of Congressional action would seem to be uncalled for.

Whether it is your wish that I advise only as to the need of *some* action to be taken, or whether you desire my views concerning the form of the inclosed bill, I am somewhat at a loss to determine from your letter. Rather, however, than fail to respond fully to your inquiry, I beg to offer the following suggestions:

(1) It seems to me that the insertion of the words contained in the pencil memorandum which I find at the foot of the first page of the bill submitted, evidently designed to be introduced in the eleventh and twelfth lines, so that thus corrected those lines and the thirteenth shall read (subsequent to the first word of the eleventh line) "the person so committing the same shall, upon conviction in a circuit or district court of the United States for the district in which such an offense was committed," would be desirable.

(2) It occurs to me that the following words, contained in the thirteenth, fourteenth, and fifteenth lines of the bill, may be less definite than might be found desirable, viz, "be liable to and receive the same punishment as *the existing laws* of the State in which such place is situated provide for the like offense," etc. The question might arise as to whether the laws existing at the time of the enactment of this bill or those existing at the time of the commission of the offense were thus referred to.

(3) I concur in the opinion expressed by Acting Judge-Advocate-General G. Norman Lieber, that a law adopting, *in advance*, whatever statutes should thereafter be enacted by the several States would amount to an attempted delegation of the Congressional legislative power, which would probably be inoperative; and, further, that, if operative, such a law would be of much embarrassment to the Government, inasmuch as it would place in the power of the various State legislatures in large measure the molding in the future of the national legislation and policy pertaining to the punishment of crimes; which view, it seems, was entertained by the circuit court of the United States for the district of Montana, cited by Mr. John D. Fleming, United States attorney for Colorado, in his communication to Col. Merriam, and which opinion appears at length in the papers transmitted to me.

With the submission of these suggestions, I beg to state that I regard as desirable the enactment of the bill under consideration.

Respectfully,

RICHARD OLNEY,
Attorney-General.

Hon. F. C. LAYTON, M. C.,
Chairman subcommittee of the Committee on the Judiciary,
House of Representatives.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 142.

RAILROAD OVER THE HOT SPRINGS RESERVATION, HOT SPRINGS, ARK.

OCTOBER 25, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GRESHAM, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 4243.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2806) granting the right of way for the construction of a railroad and other improvements over and on the Hot Springs Reservation, Hot Springs, Ark., have had the same under consideration, and report it back with the recommendation that it be laid on the table, and report the accompanying substitute for same with the recommendation that it pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 143.

HEIRS OF MARTHA A. DEALY.

OCTOBER 25, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SOMERS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 683.]

The Committee on the Public Lands, to whom was submitted the bill (H. R. 683) for the relief of the heirs of Martha A. Dealy, deceased, have had the same under consideration, and report it back with the recommendation that it pass.

The bill is recommended by the Interior Department in the following letter, which is made a part of this report:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 9, 1893.

SIR: I have the honor to acknowledge the receipt, by reference from your office, for report thereon, of House bill No. 683, "for the relief of the heirs of Martha A. Dealy, deceased," submitted by the chairman of the Committee on the Public Lands, House of Representatives, with his letter of the 26th ultimo, for your opinion thereon.

In connection therewith I beg leave to call your attention to the fact that a bill (Senate No. 1504) similar in its intent and purpose to that now before me, was reported in Congress on March 7, 1892, and upon which a full and complete report favorable to its passage had been made by this office on February 1, 1892.

This last-mentioned bill, I am informed, was favorably reported upon by the Committee on Public Lands of both the Senate and House of Representatives; was passed by the latter, and only failed of passage in the Senate by the failure to call it up in time during the closing hours of the Fifty-second Congress.

The present bill differs from the former only in the fact that in the previous bill the beneficiaries named were the heads of two families, Messrs. David Dealy and Moses Younkin, since deceased, while the beneficiaries named in the present bill are the heirs of the original claimants and of the wife of the first named, also deceased; and also in the fact that in the present bill it is made obligatory upon the State of Washington first, to select, or signify its willingness to select, according to the laws regulating selections, other land of equal area, to be taken and held by said State in lieu of the land authorized thereby to be entered, which selection, it provides, shall be a waiver of any right of the State to said land; whereas in the former bill the State was simply authorized to make such selection.

Owing to the fact that the conditions relating to this case remain the same as when the former report was made, except in the particulars mentioned above, I have considered it unnecessary to make a new report, but submit herewith a copy of the former opinion, as contained in the report of the Committee on Public Lands in the Senate, referred to above, as embodying the views of this office upon the question therein presented.

The bill, together with the letter of Mr. McRae, transmitting the same, are herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

[House Report No. 1950, Fifty-second Congress, first session.]

The Committee on the Public Lands, to whom was referred the bill (S. 1504) for the relief of David Dealy and Mary Younkin, respectfully submit the following report:

A full statement of the facts and the merits of the case are set forth in the following letter from the Commissioner of the General Land Office:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 1, 1892.

SIR: I have the honor to acknowledge the receipt, by reference from you, of Senate bill No. 1504, entitled "A bill for the relief of David Dealy and Moses Younkin," with request for a report thereon. The purpose of this bill is to confirm the title of the beneficiaries to certain land in a school section, viz, Sec. 16, T. 38 N., R. 2 E., in the State of Washington, and to allow the said State to select an equal quantity of other land in lieu thereof, in satisfaction of its school-land grant.

From affidavits and other papers on file in this office, it appears that David Dealy settled upon land in said section in March, 1884, having purchased the possessory right of one William Wood, who had, in the year 1859 or 1860, bought the same from one Monroe, who was occupying the land at the date of survey, intending to claim it under the donation law.

The other beneficiary settled at a later date, having bought a part of Dealy's claim, apparently in the belief that it was public land by virtue of Monroe's occupation thereof previous to and at the time of survey, which was supposed to have affected a permanent exception of the land from the reservation in favor of schools.

In order that it may be understood how such belief could be entertained, a brief résumé of some departmental rulings previous to and at the time may be necessary.

It appears that prior to 1878 the holding of the Department in reference to settlements on school land in California under the seventh section of the act of March 3, 1853, was that land to which the grant did not attack at the date of survey could not thereafter become subject to the right of the State, although the original settler should abandon his claim or sell it.

In 1878 a contrary view was adopted, and it was held that the right to claim the land as excepted from the grant was personal to the original settler; and that upon his abandonment thereof the land would revert to the grant or reservation, to the exclusion of subsequent settlers (Gates *vs.* California and Oregon Railroad Company, 5 C. L. O., 150; Mette *vs.* State of California, *ibid.*, 164). This view was adopted on a certain construction of the language of the Supreme Court in the case of the Water and Mining Company *vs.* Bugbey (96 U. S. R., 165). In 1882, in Perkins *vs.* Central Pacific Railroad Company (1 L. D., 336) Secretary Teller, after considering the decision in the case mentioned and comparing it with the explanatory comments made thereon in Mining Company *vs.* Consolidated Mining Company (102 U. S. R., 167), held that the former case had been misconstrued, and reaffirmed the doctrine held prior to 1878. Secretary Teller, in a decision dated December 4, 1884, in the case of Giovanni Le Franci (3 L. D., 229), again reviewed the Supreme Court decisions and held that if a tract was excepted from the school grant at the date of survey it could not afterward be claimed by the State.

In August, 1888, the Department, in the case of the State of California (7 L. D., 170), again changed its opinion upon this question, and announced the doctrine assumed in 1878 and discarded in 1884, which denied the right to enter school land in a school section to all except the original settler. This holding has, since 1888, been several times affirmed, and is now the rule of the Department, not only with reference to California cases, but as of general applicability; and it was under this ruling that the claims of Dealy and Younkin to enter the land claimed by them were rejected by office decision of August 19, 1889.

From the foregoing outline of departmental decisions it will be seen that between the years 1882 and 1888 land in the predicament of that described in the bill in California was held to be public land free from reversionary interest of the State, and open to settlement after abandonment by the original settler, whose occupation at the date of survey was held to except it from attachment of the school grant or reservation. It is true the decisions cited had reference to cases in California arising under the seventh section of the act of March 3, 1853 (10 U. S. Stat., 244), and not under the general law; but, in the popular mind, they received a general application, and parties might naturally have been misled thereby. It was during this period that Dealy made settlement.

Younkin's settlement appears to date only from about March 1, 1889. It may be noted, however, that while the doctrine at present held by the Department under the California law had been announced in 1888, the decisions on the subject were few and far from conclusive.

It appears from the papers on file in this office that the said beneficiaries have made permanent homes and valuable improvements upon the land claimed by them, and their cases seem meritorious for legislative action.

The county commissioners of Whatcom County, within which the land lies, by a resolution adopted November 5, 1889, recommended that the titles of the beneficiaries be confirmed. Such a course would not cause any loss to the United States, which would thereby simply grant an equal amount of indemnity and receive in exchange therefor the land in place, to be disposed of under the homestead or other law; nor to the State, which will simply relinquish its claim to this particular land, her title to which is controverted, and receive an equal amount under a clear title. The proposed measure seems, therefore, beneficial to all parties concerned.

It should perhaps be added for your information that if the State renounce its right to the land claimed by the settlers she will be entitled to an equal amount of indemnity as is allowed by the bill. The selections heretofore made in lieu of deficiencies in this township have been calculated on the assumption that the land described belongs to the State. In several contested cases this office has had occasion to consider the allegation that these selections are excessive, and has invariably found that the charge was not sustained and that the aggregate amount selected does not equal the deficiencies existing, counting this land as the property of the State. The same conclusion was reached by the Department in the case of William Galloway (12 L. D., 80), in which the point was raised with specific reference to the selections in lieu of deficiencies in this township. If, therefore, the State relinquished its title to the portions of the school section covered by the claims of the parties named, it will undoubtedly be entitled to an equal amount of other land in lieu of the deficiencies thus created.

I see, therefore, no objection to the measure proposed in the bill, and am rather of the opinion that its adoption would be in the interest of justice in that it is intended to afford relief to two meritorious citizens who have invested their all in these claims.

That expedients of this kind for the relief of deserving claimants are not without precedent in Congressional legislation is shown in the passage of an act on June 9, 1880, for the relief of certain settlers within the late Fort Kearney military reservation in Nebraska (21 U. S. Stat., 552; Land Laws, Local and Temporary, vol. 2, p. 938).

In view especially of the fact that these settlers went upon the land in the belief that their occupation thereof was in accordance with the law, have continued to reside thereon in good faith since that time, and have expended a considerable amount of money in improvements thereon, it would seem that they are deserving of all consideration that can be shown them.

The bill is herewith returned.

Very respectfully,

THOS. H. CARTER,
Commissioner.

The SECRETARY OF THE INTERIOR.

In the foregoing the Secretary of the Interior concurs.

From affidavits filed with this committee it appears that, since the passage of this bill by the Senate, David Dealy has died, leaving a widow, Martha A. Dealy.

The committee therefore recommends that the bill be amended by substituting the name of "Martha A. Dealy" for that of "David Dealy," wherever the latter occurs in the bill, and by making like substitute in the title.

With these amendments the committee recommends that the bill do pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 144.

CHARLES A. HALL.

OCTOBER 25, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. SOMERS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 4244.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1829) for the relief of Charles A. Hall, have had the same under consideration, and report it back with the recommendation that it be laid on the table, and report the accompanying substitute for the same, with the recommendation that it pass.

The Interior Department has recommended the passage of the substitute in a letter, which is made a part of this report, as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 9, 1893.

SIR: I have the honor to receive, by reference from the Department under date of September 28, 1893, for report in duplicate and return of paper (House bill 1829) "For the relief of Charles A. Hall," which was referred to the Department September 26, 1893, by Hon. Thomas C. McRae, chairman of the Committee on the Public Lands of the House of Representatives, with a request that you give your opinion as to the propriety of passing the same.

The bill provides "that Charles A. Hall, of Jackson County, Alabama, be permitted to complete cash entry numbered twenty-seven thousand five hundred and nine for the northwest quarter of northeast quarter and northwest quarter and southwest quarter of southwest quarter, section six, township three south, of range eight east, and cash entry numbered thirty-seven thousand five hundred and eighteen for all of section twenty-six, township three south, of range eight east, both entries being dated May eighteenth, eighteen hundred and eighty-eight, and recorded in the land office at Huntsville, Alabama."

In reply I have the honor to report that there appears to be an error in the number of the entry and in the number of the township of the cash entry first mentioned in the bill, as the records of this office show that cash entry No. 27509 was made, and the lands in section 6, T. 3 S., R. 8 E., were entered by parties other than Charles A. Hall.

The said records, however, show that Charles A. Hall made private cash entry No. 37509 May 18, 1888, at Huntsville, Ala., for NW. ¼ NE. ¼, NW. ¼ and SW. ¼ SW. ¼ sec. 6, T. 4 S., R. 8 E., and this is probably the entry intended to be described in the bill.

The second entry mentioned in the bill is found upon the records as described in said bill.

These two entries, together with eight others, were made by Charles A. Hall May 18, 1888, and they have been suspended because made subsequent to the passage of the joint resolution of May 14, 1888.

By said joint resolution of May 14, 1888 (25 Stats., 622) as amended by the joint resolution of July 16, 1888 (*ibid.*, 626) "public lands of Mississippi, Arkansas, and Alabama, subject to private sale as offered lands," are directed to be disposed of under and according to the provisions of the homestead law only until the close of the Fiftieth Congress. Before the close of that Congress, the act of March 2, 1889 (25 Stats., 854), was passed, by the first section of which it was enacted that, after the passage of said act, "no public lands of the United States, except those in the State of Missouri, shall be subject to private entry."

Instructions were not issued to the local officers in Mississippi, Arkansas, and Alabama until May 29, 1888, to suspend all sales of lands at private sale under the provisions of said joint resolution of May 14, 1888.

The cash entries referred to were made in the interim between the passage of said joint resolution of May 14, 1888, and the promulgation thereof by this office on May 29, 1888. It is presumed that at the time said entries were made, both the entryman and the local officers were in ignorance of the passage of said joint resolution.

Although said resolution became operative from the date of its approval, I am of the opinion that the equities in this class of cases are such as to entitle parties adversely affected thereby to relief.

The bill proposes to allow Hall to complete the two cash entries referred to; but he has done all that is required of him. It then only remains for Congress to confirm said entries.

I, therefore, have the honor to suggest that you recommend to Congress that the bill be made general so as to confirm all private cash entries made in the States of Mississippi, Arkansas, and Alabama between the dates of the approval of said joint resolution, May 14, 1888, and its promulgation, May 29, 1888, in cases in which all requirements of law have been complied with.

For the reasons stated, I do not think the bill, which is herewith returned, should be passed in its present form.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 146.

ADDITIONAL COPIES OF THE CONGRESSIONAL RECORD.

OCTOBER 27, 1893.—Ordered to be printed.

Mr. RICHARDSON, of Tennessee, from the Committee on Printing, submitted the following

REPORT:

The Committee on Printing have considered the joint resolutions of the House numbers 35 and 47, to print additional copies of the Congressional Record, and report a substitute therefor.

The substitute provides for the same number agreed upon and fixed by the provisions of the printing bill which recently passed the House.

The committee recommend the adoption of the substitute herewith offered, and that the resolutions 35 and 47 lie on the table.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 147.

STATE BANKS.

OCTOBER 27, 1893.—Ordered to be printed.

Mr. SPRINGER from the Committee on Banking and Currency, submitted the following

REPORT:

The Committee on Banking and Currency, to which was referred the accompanying House resolution, calling on the Secretary of the Treasury for certain information in reference to banks authorized to issue circulating notes, having had the same under consideration, have instructed me to report a substitute therefor and to recommend that the substitute be adopted, and that the original resolution lie upon the table.

Your committee are of the opinion that the information called for can be furnished by the Treasury Department within a reasonable time, and when furnished it will greatly aid Congress in the consideration of pending financial measures.

For this reason the passage of the resolution embraced in the foregoing substitute is recommended.

All of which is respectfully submitted.

[Original resolution.]

Resolved, That the Secretary of the Treasury be requested to inform the House the number and names of State banks and banking institutions that have suspended or failed since 1830, arranged by States, with the amount of capital, circulation, and deposits of each at the time of such failure, and the loss severally of stockholders, note holders, and other creditors of said banks occasioned by such failures; the amount of outstanding circulating notes of State banks and banking associations each year since 1830, and the rates of exchange on New York, and the current value of the circulating notes of State and national banks as between the State where issued and the city of New York each year since 1830; together with the prevailing rates of interest in State banks, banking associations, and national banks since 1830, and the legal rates of interest prescribed or authorized by the respective States for the same period.

[Proposed substitute.]

Resolved, That the Secretary of the Treasury be requested to inform this House the number and names of State banks and banking institutions that have suspended or failed since 1830, arranged by States, with the amount of capital, circulation, and deposits of each at the time of such failure, and the loss severally of stockholders, note holders, and other creditors of said banks occasioned by such failures; the character of the nominal assets and securities of each of said banks at the time of its failure from which on liquidation were realized less than their nominal value; the nominal and realized value, respectively, of each class of such assets or securities; the means whereby and the extent to which the stockholders, the

note holders, and other creditors of each of such banks were, respectively, protected by provision of law requiring security or otherwise, and the extent to which such provision of law was complied with or violated; the amount of outstanding circulating notes of State banks and banking associations each year since 1830, and the rates of exchange on New York, and the current value of the circulating notes of State and national banks, and the commercial paper of business firms in good repute, as between the State where issued and the city of New York, each year since 1830, together with the prevailing rates of interest in State banks, banking associations, and individual bankers and capitalists, respectively, and national banks since 1830, and the legal rate of interest prescribed or authorized by the respective States for the same period; and also to furnish copies of the laws in force in the several States on the 1st day of July, 1860 and 1893, respectively, for the organization of State banks, banking institutions and savings banks, and the regulation or supervision of the same.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 148.

FREE ADMISSION TO AMERICAN REGISTRY OF SHIPS BUILT IN FOREIGN COUNTRIES.

OCTOBER 30, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. FITHIAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT:

[To accompany H. R. 2655.]

The Committee on Merchant Marine and Fisheries to whom was referred the bill (H. R. 2655) entitled "A bill for the free admission to American registry of ships built in foreign countries," have had the same under consideration and beg leave to submit the following report:

The bill provides:

That from and after the first day of January, eighteen hundred and ninety-four, any citizen or citizens of the United States may purchase the whole of any steam or sail vessel, no matter where said vessel may have been built, whether within the United States or in a foreign country, or whether said vessel may have been owned in whole or in part by an alien or aliens; and said vessel shall be registered free of duty as to her hull, spars, appliances, outfit, and equipment (including boilers, engines, and machinery, if a steam vessel) as a vessel of the United States by the collector in any port of entry of the United States to whom application for such registry may be made by said citizen or citizens, in the same manner as though said vessel had been built in the United States: *Provided*, That any vessel so purchased and registered shall not be used or allowed to engage in the coastwise trade of the United States.

This committee in the Fifty-first Congress, in reporting a bill to pay bounties to American-built ships, truthfully set forth the condition of our merchant marine. It said that—

It is a fact well known to Congress, the country, and the world at large that thirty-five years ago, and even as far back as eighty and ninety years ago, the merchant marine of the United States was one of our leading interests, a great source of our prosperity, and the strong right arm of national power. And we regret to say that it is no less notorious now that our shipping in the foreign trade has sunk almost out of sight. As an interest it is as low as it once was high; as a source of employment or of gain it is of little account; as an arm of the national power it has withered away. Our foreign carrying trade, enormously great, is almost entirely passive for want of merchants and underwriters, ships and seamen of our own. Our people have been driven from their rightful pursuits of the sea and from an active carrying trade in the products of their industry ashore. In the change that has come over our navigation and commerce what our citizens have lost our nation has lost; what aliens have gained foreign nations have gained.

To comprehend fully the national interest in thus increasing export values and decreasing import cost, by the use of shipping of our own, we will suppose that our marine in foreign trade, for the last ten years, could have done 75 or 50 per cent of the export and import carrying. Of foreign commerce, by sea, there was an annual average of $1,525,838,050, which was $26.85 per capita, a very much greater trade than in any ten-year period before the war. From the best calculations that have been made, it appears that the average price for freighting our ocean commerce may be fixed approximately at 15 per cent for exports and 10 per cent for imports, averaging 12.5 per cent of the value for both carried annually. At this rate the total ocean

transportation would amount to $190,726,756. Our marine doing 75 per cent of this would earn and save $143,047,317; doing 50 per cent of it would make $95,364,878. Instead of this, however, our shipping has carried an average of only 15 per cent, earning and saving us only $28,609,463. It results that, under the first supposition there has been lost annually for the past ten years $114,437,844, and under the second hypothesis, $66,755,415, from the country's wealth.

If all the nations with whom we deal by sea had vessels of their own to share the transportation, the most that could be asked of us would be an equal part of it. That would give us half the carriage. But so many maritime nations have few, if any, vessels, it results that our equitable share of transportation is about 75 per cent of our foreign trade. This estimate does not include the passenger traffic nor postal service.

It is easily understood that the commercial loss from foreign vessels monopolizing almost all our ocean carriage is not local nor individual, but national. It is of national interest to increase our export valuation by adding ocean carriage to production, and to lessen our import liability by using our own marine. It is of national concern to have a favorable balance of trade abroad. Foreign transportation creates a foreign debt. For each of the past ten years we have made and paid a debt of $162,119,293 for the carriage of merchandise alone. The annual average value of exports by American vessels for the past ten years was $89,475,029. It therefore took all our fleet in the foreign trade twenty-two months to carry productions enough to discharge the debt for foreign transportation for a single year.

With sufficient shipping of our own, we would have a credit instead of a debt abroad. We would have controlled our own trade instead of having foreign nations control it for us. We would have greatly increased our exports by being our own merchants and carriers. It is through the earnings and savings of her great and adequate marine that England regulates and controls her commerce and secures a balance of account against the world. Take away the equipoise of British transportation, and the "ruler of the sea" would soon sink into its depths. It is the work of her shipping that enables her every year to import four or five hundred million dollars more than she exports. She has seized so much of our trade and transportation, that she more than pays, with the work of her ships, for all the grain and beef she buys of the United States.

* * * * * * *

The shipping problem is, therefore, very plainly, in both its military and commercial aspects, one of profound national interest. It is for Congress to solve it. Under the original policy of the Government our people, in their different pursuits of the sea, solved it for the nation. That policy having been changed, and the demonstration having been satisfactorily made, that, under the policy substituted, our people can not maintain a marine, it becomes necessary for the Government to aid them in so doing. The question is, How shall this be done?

That this is the condition of our merchant marine and our foreign carrying trade no one will dispute, but the contention arises as to the best means of rehabilitating our merchant marine and regaining our foreign carrying trade. The Republican method is, as was proposed in the bill in the Fifty-first Congress, to pay a bounty for navigating ships. The subsidizing of ships has frequently been resorted to in this as well as other countries, and in every instance it has proven a failure. It is not a new and untried experiment, and, even if the principle was sound, it would be unwise to resort to what past experience had demonstrated to be an utter failure.

In this connection the committee deems it appropriate to quote from several eminent statesmen who have spoken in Congress upon this question. Mr. Benjamin Butler said:

I am opposed diametrically with all my might, with all my judgment, with all my strength to the idea of subsidizing any lines whatever. The only time when this Government attempted to subsidize a line of steamers, the great Collins line, we not only lost our money, but ruined those whom we undertook to aid.

Mr. Chandler said:

It is desirable to own iron ships, very desirable, and I hope to see the day when we shall have our old supremacy in shipping; but it never will be done in the world by subsidies. It is not the subsidized lines of Great Britain that pay the largest returns. * * * You will never restore your flag to the ocean by subsidies, I care not how great you may make them; you may increase your subsidies to $10,000,000 a year and you will not restore your flag.

Mr. Morrill said:

Is it practicable to recall our shipping? I think it is, and by the simplest process. Not a dollar of subsidies. Give us cheap materials and we will do it. Give us the ground on which we stand, so that we shall have our materials just as cheap as they can be afforded elsewhere, and then all these shipyards and all that skilled labor will be at work at once, and you will find that we shall restore the balance of the shipping interests on the ocean that now stands against us.

Senator Sherman, in a speech advocating free ships, said:

Since we can not build these vessels within 20 or 30 per cent of the cost in England, why not admit them? Why not admit them duty free, raise the American flag upon them, put American officers upon their decks, and have American lines instead of British lines? Why, sir, if that bill should pass, authorizing foreign ships when owned by American citizens to be used for the present, for three years under the American flag, one-half of the lines between New York and England would be American lines in sixty days.

Senator Edmunds declared that "it was as much unconstitutional and wrong to grant these subsidies to Americans as to give them to foreigners."

Hon. Joseph G. Cannon, member of the present Congress, on the 28th of February, 1879, during a debate on the subsidy question, said:

Now, what is this proposition? Oh, it is to give John Roach $3,000,000 as a practical gratuity and to charge that as a tax on the cotton, and provisions, and tobacco, and wheat, and grain, and breadstuffs, and oil, that we produce. What for? To enable somebody to sell something that he has made, which it cost $1.43 to make here, while it cost only $1 to make it in Europe, and both manufacturers have to go to the same market, namely, Brazil. Why, gentlemen, if you had a business agent who proposed to do your private business in that way you would put him into a lunatic asylum or swear that he was a thief or an idiot and discharge him.

Commencing in the year 1847 down to the present time (1879) act after act has been passed for a similar purpose (postal subsidies). I hold in my hand the official statements of the Secretary of the Navy and the Postmaster-General, which show payments of subsidies to the amount, in round numbers, of $14,500,000 to steamship lines during the period from the year 1848 to 1858. I hold in my hand a statement that shows subsidies to the amount of $7,000,000, in round numbers, since that time, making over $21,000,000 that have been paid out of the Treasury for the purpose of establishing steamship lines—$7,000,000 would buy all the steamships engaged in commerce that sail under the American flag on every ocean in the world—and more than that, the subsidizing of these steamship lines, from the Collins line in 1852 up to the present time, has bankrupted every prominent man that has favored it.

In 1856 the values of the imports and exports coming into and leaving our ports on foreign vessels amounted to $159,336,576, while the values of the imports and exports carried on American vessels were $482,268,274, the per cent carried on foreign vessels being 75.2. In 1866 the values of the imports and exports carried on our vessels had shrunk to $325,711,861, while the imports and exports carried on foreign vessels had increased to $685,226,691, the per cent carried on American vessels being 32.2. In 1876 the values of the imports and exports carried on American vessels were $311,076,171, while the values of the imports and exports carried on foreign vessels were $813,354,987, the per cent carried on American vessels being 27.7. In 1886 the values of the imports and exports carried on American vessels were $197,349,503, while the values of the imports and exports carried on foreign vessels were $1,073,911,113, the per cent carried on American vessels being 15.5. For the fiscal year 1893 the values of the imports and exports carried on American vessels were $197,765,507, while the values of the imports and exports carried on foreign vessels were $1,428,316,568, the per cent carried on American vessels being 11.5. By these figures it will be seen that our foreign carrying trade practically amounts to nothing, and at the present rate of decrease it will only be a few years until we will lose it all.

The French law, which went into effect January 29, 1881, giving a bounty both to the navigation and construction of French vessels, proved unsatisfactory and failed to accomplish the results expected by its authors. The law expired January 29, 1891, and a renewal of the law was demanded by its advocates as a means to check the downward course of the French tonnage. It seems apparent that subsidies to ships, to be of any avail, must be permanent and continuing forever. Mr. Cramp, who is a shipbuilder and a strong advocate of subsidies, in speaking of the French law before this committee in the Fifty-first Congress, said:

> Experience has shown to the French that their system was too short-lived to produce complete results. The result is agitation for a renewal or extension of the term of the law.

So that if subsidies are to be invoked as the remedy for our decaying merchant marine the people must be taxed forever; our merchant marine must be an annual charge upon the Government and supported like paupers in almshouses.

We must be taxed forever to keep the patient alive and never effect a cure. The French marine authority that was cited, after a lengthy review of the effect of the French law, brimming with statistical facts, says:

> By these statistics we ascertain that France alone, among the great nations, sees its merchant marine decreasing in importance.

We feel that it is unnecessary to comment any further upon the folly of attempting to restore our merchant marine and carrying trade by Government bounties, except to answer the false assertions that are made by the opponents of free ships and the advocates of subsidies that the present wonderful achievments of the merchant marine of Great Britain is due to payment of subsidies by that Government. This claim is not founded on fact. Great Britain pays certain lines for carrying the mails the same as we pay the railway lines for carrying our mails. These mail contracts are let at public letting to the lowest responsible bidders and are not restricted to British lines alone. These mail contracts are generally exacting in their terms. Deductions are made for overtime, and penalties for nonperformance are provided for in the contracts. These postal payments or subsidies have been gradually decreasing since 1868. Consul-General New, in his report dated London, September 3, 1889, said:

> The British Government does not grant subsidies, in the general sense of the term, to any steamship company, but the post-office authorities make contracts for the conveyance of mails to the different parts of the world with steamship companies having steamers sailing to those ports.

The sailing fleet of Great Britain, which is the largest in the world, does not receive a single penny in the way of bounty, subsidy, mail pay, or in any other way from the British Government. The lines between New York and Great Britain that receive postal subsidies from the British Government are insignificant when compared with the regular lines of British steamers between New York and Great Britain which do not receive either postal subsidy or admiralty subvention. Besides the regular lines, there is a large number of tramp steamers that form a respectable fleet by themselves sailing between our ports and the ports of Great Britain that receive no aid from the British Government. It is a fact indisputable that the British lines that receive no Government aid are as prosperous as those that do.

Another claim is made by subsidy advocates that Great Britain encourages her merchant marine by a system of admiralty subventions. This system dates from 1878–1888. This claim might deceive some if it were not for the fact that Great Britain's merchant marine was in a most prosperous condition before the period of admiralty subventions. It can not, therefore, be truthfully asserted that such payments are made for the encouragement of British shipping. These payments are made on the condition that the ships should be so constructed as to permit the carriage of heavy guns and be made otherwise available as war cruisers, and, thus modified, be held at the disposal of the British Government at all times for purchase or hire at the option of the admiralty. Vessels thus constructed are less useful in their employment in the passenger and freight service, and the cost of the vessel is thereby increased, and the payment is only just compensation for such losses to their owners. This subvention is now paid to only ten ships, belonging to four different lines.

The present law, which denies registration as vessels of the United States to all vessels not built in the United States, was enacted in 1792. Its object was to give protection to our shipbuilding, then an infant industry. In 1893, after one hundred and one years of protection, and at periods fed upon Government bounties, we still find it an infant, refusing to stand alone and walk, not because it has become enfeebled by age, but because it is still an infant. And why is it, after one hundred years, still an infant? Is it not because it has been more dependent upon legislation than upon its own efforts to advance to maturity?

Shipbuilding is not alone all the important industry involved in this question. It is desirable to build ships, but the ocean carrying trade is also of vast importance. The shipbuilders who are the chief subsidy advocates are not so much concerned about our carrying trade as they are in maintaining our present manifestly unwise restrictive navigation laws. They want shipbuilding protected, and want the Government to keep ships sailing upon the ocean by a system of bounties, with little concern about the amount of commerce carried in the subsidized bottoms. In the days of wooden ships we built ships in the United States cheaper than they could be built in England. Had England then pursued the policy that we have pursued since iron and steel ships supplanted wooden ships we would soon have surpassed England in the carrying trade of the world. In 1849 England, seeing the disadvantage that her merchants were put to, repealed her navigation laws, but not until after a long and stubborn fight against the repeal of the law by British shipbuilders.

In 1855 the iron ships came into use. England then could build iron ships cheaper than we could. We ought then to have done what England did in 1849. We ought to have repealed our restrictive navigation laws and allowed our merchants to buy ships where they could buy them the cheapest, and perhaps would have done so had it not been for the opposition of the American shipbuilders. The repeal of the English navigation laws did not destroy the shipbuilding industry of that country, as was predicted by the British shipbuilders, but shipbuilding continued to prosper without check or hindrance after the repeal of the law by the British Parliament, and to-day Great Britain is the great shipbuilding country of the world. Our shipbuilders claim that the cost of materials has been so much higher in this country that they could not compete with British shipbuilders, and that if they had free raw material they could overcome any difference in the cost of labor.

Mr. John Roach, in 1869, before the House committee to investigate the cause of the decline of our shipping interests, said:

America has lost her commerce, and what has she obtained in exchange for it? Simply the right of a few men to charge $9 per ton in gold on the importation of pig iron. Pig iron is the basis of all other metals connected with the making and repairing of ships. There has been a revolution in shipbuilding, and iron is the material from which they are now built. The high cost of iron produced by the tariff upon it is one of the principal difficulties our commerce has to contend with. I did not come here to ask a bounty. I came here to tell you that while all other articles of American produce are protected to a great extent there is no protection for American ships. If Congress will take off all the duties from American iron, reducing it to the price of foreign iron, then we are prepared to compete with foreign shipbuilders. The labor question is misstated; we are prepared to meet that difficulty, and to ask no further legislation on the subject.

Mr. Charles H. Cramp, in reply to a question by Mr. Morrill as to the average rate of duty of materials entering into the construction of ships, said:

About 40 per cent, and if our shipbuilders could be relieved from that they could compete successfully with foreign builders. The difference in the cost of labor would be overcome by the superiority of American mechanics. Wooden ships will no longer be built, since iron ships are superior in every respect.

Our present tariff law provides—

That all lumber, timber, hemp, manilla, wire rope, and iron and steel rods, bars, spikes, nails, plates, tees, angles, beams, and bolts, and copper, and composition metal which may be necessary for the construction and equipment of vessels built in the United States, for foreign account and ownership or for the purpose of being employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, after the passage of this act, may be imported in bond, under such regulations as the Secretary of the Treasury may prescribe, and upon proof that such materials have been used for such purpose no duties shall be paid thereon. But vessels receiving the benefit of this section shall not be allowed to engage in the coastwise trade of the United States more than two months in any one year, except upon the payment to the United States of the duties on which a rebate is herein allowed: *Provided*, That vessels built in the United States for foreign account and ownership shall not be allowed to engage in the coastwise trade of the United States.

With free raw material shipbuilders should redeem their pledges to compete successfully with foreign builders. If the present bill becomes a law they will have the opportunity, and the majority of the committee entertains no doubt that they will not only compete with, but will soon surpass foreign shipbuilders.

The effect of our present laws has been to drive the American flag off the ocean. Lines that are essentially American lines are sailing the ocean under the British and other foreign flags. Ninety per cent of the stock of some of these foreign lines is owned by citizens of the United States. They sail their ships under foreign flags and seek foreign registry because our laws refuse them American registry and do not permit them to enter our ports under the Stars and Stripes. Hon. John M. Forbes, of Boston, an old merchant engaged in the China tea trade, said before this committee in the Fifty-first Congress:

I am ready to answer any question that comes within the scope of my very limited experience in modern ships, but should like to sum up my position in the respectful request that you will allow me and other American merchants the protection of the Stars and Stripes over such ships, wherever built, as we think necessary to carry on our foreign trade successfully. We don't ask for charity in the way of subsidies, but simply for the protection of our flag in doing what, by treaty or by friendship, you have long allowed every Englishman, Dutchman, Frenchman, or Sandwich Islander to do. The laws of trade are immutable, and so long as our people set them at defiance in this particular the American shipowner and merchant must be contented with a very insignificant position, while I am perfectly sure that any impartial coroner's jury, sitting upon the remains of our foreign shipping interests to-day, would bring in a verdict of "protected to death."

I am a firm believer in resurrection, and when the financial quacks and political machinists have tried their hand in applying the stimulus of jobs, bounties, and subsidies, and have given up the hopeless task, I am sure that competition and free trade in ships, and the material and supplies for their use, will in due time restore not only our flag to the seas, and the foreign trade which naturally follows it to our citizens, but also the activity to our shipyards which is now a matter of tradition to the young and of memory among the old men. I know that anybody else except an American can bring a ship over here, and that is the privilege that I ask and is the basis of what I ask. It is a discrimination against the American shipowner, and I ask that that be removed and that I be allowed to carry the American flag. I can go to the English laws and I can give some Englishman a commission, and can put the ship under the British flag. It seems to me very hard that an American should be driven out of the trade by restrictions that do not apply to the inhabitants of any other country. I do not ask any privileges in the coast trade, but that I can get my ship and carry on competition in every other country.

The committee are satisfied that bounties will not restore our shipping interests, and that it is necessary to bring about a revival of our shipping industry; that our restrictive navigation laws should be repealed, our merchants permitted to buy their ships where they can buy them the cheapest, and sail them under the American flag.

In the language of the report of the majority of this committee in the Fifty-first Congress on the Farquhar subsidy bill, "We have bound our limbs and cramped our energies by acts and treaties that bind no longer any nation but our own."

It is time that the chains should be broken, the fetters removed, and our cramped energies allowed to expand. Your committee, therefore, recommends that the bill (H. R. 2655) do pass.

TREASURY DEPARTMENT,
BUREAU OF STATISTICS,
Washington, D. C., October 4, 1893.

DEAR SIR: I have the honor to inclose to you two tables prepared in reply to the request contained in your letter of the 2d instant. I believe these tables will supply all the information, with the exception of the item "tonnage of vessels built in the United States for the foreign trade." This Bureau has no statistics on that subject, but a letter from you addressed to the Bureau of Navigation, Treasury Department, may obtain some information. Should you desire anything in addition to these tables, I shall be happy to oblige you.

Yours, respectfully,

WORTHINGTON C. FORD,
Chief of Bureau.

Hon. GEO. W. FITHIAN, M. C.,
House of Representatives.

Tonnage of vessels built in the lake trade, the river trade, and the coastwise trade of the United States, with the per cent of increase or decrease, of each class, from 1856 to 1892, inclusive.

Year ending June 30—	On the Great Lakes.		On the Mississippi River and its tributaries.		On the entire seaboard.		Total.	
	Tons.	Increase (+) or decrease (−).	Tons.	Increase (+) or decrease (−).	Tons.	Increase (+) or decrease (−).	Tons.	Increase (+) or decrease (−).
		Per cent.		*Per cent.*		*Per cent.*		*Per cent.*
1856	63,928	.....	36,785	.....	368,681	.....	467,394	.....
1857	51,498	− 19.4	41,854	+ 13.8	285,453	− 22.6	378,805	− 19.2
1858	31,642	− 38.6	35,659	− 14.8	177,412	− 37.8	244,713	− 35.4
1859	6,180	− 80.5	17,128	− 52	133,294	− 24.9	156,602	− 36
1860	11,992	+ 94	32,970	+ 92.5	169,836	+ 27.4	214,798	+ 37.2
1861	23,467	+ 95.7	29,966	− 9.4	179,767	+ 5.8	233,194	+ 8.6
1862	53,804	+129.6	8,785	− 70.6	112,487	− 37.4	175,076	− 24.9
1863	67,972	+ 26.3	27,407	+212	215,667	+ 41.7	311,046	+ 77.7
1864	49,151	− 27.7	56,169	+104.9	310,421	+ 43.7	415,741	+ 33.7
1865	36,641	− 25.5	66,576	+ 18.5	291,306	− 6.1	394,601	− 5.1
1866	33,204	− 9.4	70,555	+ 6	232,388	− 20.2	336,147	− 14.8
1867	39,679	+ 19.5	35,106	− 50.2	230,810	− .7	305,595	− 9.1
1868	56,798	+ 43.1	52,695	+ 50.7	175,812	− 23.8	285,305	− 6.6
1869	49,460	− 12.9	34,576	− 34.4	191,194	+ 8.7	275,230	− 3.5
1870	37,258	− 24.7	56,859	+ 64.4	182,836	− 4.3	276,953	+ .6
1871	43,897	+ 17.8	73,080	+ 28.5	156,249	− 14.3	273,227	+ 1.3
1872	44,611	+ 1.6	36,344	− 50.3	128,097	− 18	209,052	− 23.5
1873	92,448	+107.2	48,659	+33.9	218,139	+70	359,246	+71.8
1874	91,986	−.5	63,646	+30.8	277,093	+27	432,725	+20.5
1875	29,871	−67.5	23,294	−63.4	244,474	−11.3	297,639	−31.2
1876	16,124	−46	23,636	+1.5	163,826	−33	203,586	−31.6
1877	8,903	−44.8	34,693	+46.8	132,996	−18.8	176,592	−13.3
1878	11,438	+28.5	68,928	+98.7	155,138	+16.7	235,504	+33.4
1879	15,135	+32.3	62,213	−9.7	115,683	−25.4	193,031	−18
1880	22,899	+51.2	32,791	−47.3	101,719	−12.1	157,409	−18.5
1881	73,504	+221	81,189	+147.6	125,766	+13.8	280,459	+78.2
1882	58,369	−20.6	35,817	−55.9	188,084	+49.6	282,270	+.6
1883	28,638	−50.7	26,443	−26.2	210,349	+11.8	265,430	−6
1884	30,431	+6.2	16,664	−37	178,419	−15.2	225,514	−15
1885	26,826	−21	11,220	−32.7	121,010	−32.2	159,056	−29.5
1886	20,400	−24	10,595	−5.6	64,458	−46.7	95,453	−40.6
1887	26,488	+147.5	10,901	+2.9	83,061	+28.4	150,450	+57.6
1888	101,103	+78.1	11,859	+8.8	105,125	+26.6	218,087	+45
1889	107,080	+5.9	12,202	+2.9	111,852	+6.4	231,134	+6
1890	108,526	+1.4	16,506	+35.3	169,091	+51.2	294,123	+27.3
1891	111,856	+3.1	19,984	+21.1	237,462	+40.4	369,302	+25.2
1892	45,969	−58.9	14,801	−26.9	138,863	−41.5	199,632	−45.9

Value of imports and exports carried in United States and in foreign vessels from 1821 to 1893.

Fiscal years.	Imports.			Exports.		
	In cars and other land vehicles.	In American vessels.	In foreign vessels.	In cars and other land vehicles.	In American vessels.	In foreign vessels.
1821	.....	$58, 025, 890	$4, 559, 825	.....	$55, 175, 572	$9, 798, 410
1822	.....	76, 984, 331	6, 257, 210	.....	60, 715, 568	11, 444, 713
1823	.....	71, 511, 541	6, 067, 726	.....	65, 515, 666	9, 383, 464
1824	.....	75, 265, 053	5, 283, 954	.....	67, 411, 706	8, 574, 951
1825	.....	91, 902, 512	4, 437, 563	.....	88, 799, 749	10, 735, 639
1826	.....	80, 778, 120	4, 196, 357	.....	69, 553, 516	8, 041, 806
1827	.....	74, 965, 496	4, 518, 572	.....	72, 090, 444	10, 232, 283
1828	.....	81, 951, 319	6, 558, 505	.....	61, 108, 374	11, 156, 312
1829	.....	69, 325, 552	5, 166, 975	.....	62, 089, 441	10, 269, 230
1830	.....	66, 035, 739	4, 481, 181	.....	63, 882, 719	9, 966, 789
1831	.....	93, 962, 110	9, 229, 014	.....	65, 546, 181	15, 764, 402
1832	.....	90, 298, 229	10, 731, 037	.....	66, 140, 760	21, 036, 183
1833	.....	98, 060, 772	10, 057, 539	.....	68, 058, 231	22, 082, 202
1834	.....	113, 700, 174	12, 821, 158	.....	77, 693, 461	26, 643, 512
1835	.....	135, 288, 865	14, 606, 877	.....	94, 135, 191	27, 558, 386
1836	.....	171, 056, 442	18, 323, 593	.....	97, 132, 457	31, 530, 583
1837	.....	122, 177, 193	18, 812, 024	.....	91, 207, 563	26, 211, 813
1838	.....	103, 087, 448	10, 629, 956	.....	89, 819, 799	18, 666, 817
1839	.....	143, 874, 252	18, 217, 880	.....	94, 787, 948	26, 240, 468
1840	.....	92, 802, 352	14, 339, 167	.....	105, 622, 257	26, 463, 689
1841	.....	113, 221, 877	14, 724, 300	.....	94, 808, 638	27, 043, 165
1842	.....	88, 724, 280	11, 437, 807	.....	79, 893, 023	24, 798, 511
1843	.....	49, 971, 875	14, 781, 924	.....	65, 053, 636	19, 292, 844
1844	.....	94, 174, 673	14, 260, 362	.....	78, 450, 529	32, 749, 517
1845	.....	102, 438, 481	14, 816, 083	.....	86, 942, 442	27, 704, 164
1846	.....	106, 008, 173	15, 683, 624	.....	86, 550, 175	26, 938, 341
1847	.....	113, 141, 357	33, 404, 281	.....	100, 204, 804	53, 868, 210
1848	.....	128, 647, 232	26, 351, 696	.....	109, 657, 931	44, 374, 200
1849	.....	120, 382, 152	27, 475, 287	.....	100, 533, 123	45, 222, 697
1850	.....	139, 657, 043	38, 481, 275	.....	99, 615, 041	52, 283, 679
1851	.....	163, 650, 543	52, 574, 389	.....	152, 456, 689	65, 931, 322
1852	.....	155, 258, 467	53, 038, 388	.....	139, 476, 937	70, 181, 429
1853	.....	191, 688, 325	76, 290, 322	.....	155, 028, 802	75, 947, 355
1854	.....	215, 376, 273	86, 117, 821	.....	191, 322, 266	84, 474, 054
1855	.....	202, 234, 900	59, 233, 020	.....	203, 250, 562	71, 906, 284
1856	.....	249, 972, 512	64, 667, 430	.....	232, 295, 762	94, 669, 146
1857	.....	259, 116, 170	101, 773, 971	.....	251, 214, 857	111, 745, 825
1858	.....	203, 700, 016	78, 913, 134	.....	243, 491, 288	81, 153, 133
1859	.....	216, 123, 428	122, 644, 702	.....	249, 617, 953	107, 171, 509
1860	.....	228, 164, 855	134, 001, 399	.....	279, 082, 902	121, 039, 394
1861	.....	201, 544, 055	134, 106, 098	.....	179, 972, 733	69, 372, 189
1862	.....	92, 274, 100	113, 497, 629	.....	125, 421, 318	104, 517, 667
1863	.....	109, 744, 580	143, 175, 340	.....	132, 127, 891	199, 880, 691
1864	.....	81, 212, 077	248, 350, 818	.....	102, 849, 409	237, 442, 730
1865	.....	74, 385, 116	174, 170, 536	.....	93, 017, 756	262, 839, 588
1866	.....	112, 040, 395	333, 471, 763	.....	213, 671, 466	351, 754, 928
1867	.....	117, 209, 536	300, 622, 035	.....	180, 625, 368	280, 708, 368
1868	.....	122, 905, 225	248, 659, 583	.....	175, 016, 348	301, 886, 491
1869	.....	136, 802, 024	300, 512, 231	.....	153, 154, 748	285, 979, 781
1870	.....	153, 237, 077	309, 140, 510	.....	199, 732, 324	329, 786, 978
1871	$15, 187, 354	163, 285, 710	363, 020, 644	$7, 798, 156	190, 378, 462	392, 801, 932
1872	17, 635, 681	177, 286, 302	445, 416, 783	10, 015, 089	168, 044, 799	393, 929, 579
1873	17, 070, 548	174, 739, 834	471, 806, 765	10, 799, 430	171, 566, 758	484, 915, 886
1874	14, 513, 335	176, 027, 778	405, 320, 135	8, 509, 205	174, 424, 216	533, 885, 971
1875	13, 083, 859	157, 872, 726	382, 949, 568	7, 304, 376	156, 385, 066	501, 838, 949
1876	12, 148, 667	143, 389, 704	321, 139, 500	6, 324, 487	167, 686, 467	492, 215, 487
1877	10, 697, 640	151, 834, 067	329, 565, 833	6, 767, 179	164, 826, 214	530, 354, 703
1878	12, 965, 999	146, 499, 282	307, 407, 565	7, 511, 365	166, 551, 624	569, 583, 564
1879	11, 983, 823	143, 590, 353	310, 499, 599	7, 439, 862	128, 425, 339	600, 769, 633
1880	15, 142, 465	149, 317, 368	503, 494, 913	5, 838, 928	109, 029, 200	720, 770, 521
1881	17, 193, 213	133, 631, 146	491, 840, 269	8, 259, 308	116, 955, 324	777, 162, 714
1882	22, 854, 946	130, 266, 826	571, 517, 802	12, 118, 371	96, 962, 919	641, 460, 967
1883	23, 003, 048	136, 002, 290	564, 175, 576	25, 089, 844	104, 418, 210	604, 331, 348
1884	20, 140, 294	135, 046, 207	512, 511, 192	26, 573, 774	98, 652, 828	615, 287, 007
1885	21, 149, 476	112, 864, 052	443, 513, 801	24, 183, 299	82, 001, 691	636, 004, 765
1886	24, 555, 683	118, 942, 817	491, 937, 636	19, 144, 667	78, 406, 686	581, 973, 477
1887	27, 562, 059	121, 365, 493	543, 392, 216	21, 389, 666	72, 991, 253	621, 802, 292
1888	32, 209, 459	123, 525, 298	568, 222, 357	22, 147, 368	67, 332, 175	606, 474, 964
1889	38, 227, 861	120, 782, 910	586, 120, 881	28, 436, 517	83, 022, 198	630, 942, 660
1890	40, 621, 361	124, 948, 948	623, 740, 100	32, 949, 902	77, 502, 138	747, 376, 644
1891	40, 932, 755	127, 471, 678	676, 511, 763	31, 923, 439	78, 988, 047	773, 569, 324
1892	39, 726, 595	139, 139, 891	648, 535, 976	33, 221, 472	81, 033, 844	916, 022, 832
1893	44, 121, 094	127, 095, 434	695, 184, 394	43, 862, 947	70, 670, 073	733, 182, 174

Value of imports and exports carried in United States and in foreign vessels from 1821 to 1893—Continued.

Fiscal years.	Total imports and exports.				Per cent carried in American vessels.
	In cars and other land vehicles.	In vessels—			
		American.	Foreign.	Total.	
1821		$113,201,462	$14,358,235	$127,559,697	88.7
1822		137,699,899	17,701,923	155,401,822	88.4
1823		136,827,207	15,451,190	152,278,397	89.9
1824		142,676,759	13,858,905	156,535,064	91.2
1825		180,702,261	15,173,202	195,875,463	92.3
1826		150,331,636	12,238,163	162,569,799	92.5
1827		147,056,040	14,750,855	161,806,895	90.9
1828		143,059,693	17,714,817	160,774,510	88.9
1829		131,414,993	15,436,205	146,851,198	89.5
1830		129,918,458	14,447,970	144,366,428	89.9
1831		159,508,291	24,993,416	184,501,707	86.5
1832		156,438,989	31,767,220	188,206,209	83.1
1833		166,119,003	32,139,741	198,258,744	83.8
1834		191,393,635	39,464,670	230,858,305	83.0
1835		229,424,056	42,165,263	271,589,319	84.5
1836		268,188,899	49,854,176	318,043,075	84.3
1837		213,384,756	45,023,837	258,408,593	82.6
1838		192,907,247	29,296,773	222,204,020	84.2
1839		238,662,200	44,458,348	283,120,548	84.3
1840		198,424,609	40,802,856	239,227,465	82.9
1841		208,030,515	41,767,465	249,797,980	83.3
1842		168,617,303	36,236,318	204,853,621	82.3
1843		115,025,511	34,074,768	149,100,279	77.1
1844		172,625,202	47,009,879	219,635,081	78.6
1845		189,380,923	42,520,247	231,901,170	81.7
1846		192,558,348	42,621,965	235,180,313	81.7
1847		213,346,161	87,272,491	300,618,652	70.9
1848		238,305,163	70,725,896	309,031,059	77.4
1849		220,915,275	72,697,984	293,613,259	75.2
1850		239,272,084	90,764,954	330,037,038	72.5
1851		316,107,232	118,505,711	434,612,943	72.7
1852		294,735,404	123,219,817	417,955,221	70.5
1853		346,717,127	152,237,677	498,954,804	69.5
1854		406,698,539	170,591,875	577,290,414	70.5
1855		405,485,462	131,139,904	536,625,366	75.6
1856		482,268,274	159,336,576	641,604,850	75.2
1857		510,331,027	213,519,796	723,850,823	70.5
1858		447,191,304	160,066,267	607,257,571	73.7
1859		465,741,381	229,816,211	695,557,592	66.9
1860		507,247,757	255,040,793	762,288,550	66.5
1861		381,516,788	203,478,278	584,995,066	65.2
1862		217,695,418	218,015,296	435,710,714	50.0
1863		241,872,471	343,056,031	584,928,502	41.4
1864		184,061,486	485,793,548	669,855,034	27.5
1865		167,402,872	437,010,124	604,412,996	27.7
1866		325,711,861	685,226,691	1,010,938,552	32.2
1867		297,834,904	581,330,403	879,165,307	33.9
1868		297,981,573	550,546,074	848,527,647	35.1
1869		289,956,772	586,492,012	876,448,784	33.1
1870		352,969,401	638,927,488	991,896,889	35.6
1871	$22,985,510	353,664,172	755,822,576	1,109,486,748	31.9
1872	27,650,770	345,331,101	839,346,362	1,184,677,463	29.2
1873	27,869,978	346,306,592	966,722,651	1,313,029,243	26.4
1874	23,022,540	350,451,994	939,206,106	1,289,658,100	27.2
1875	20,388,235	314,257,792	884,788,517	1,199,046,309	26.1
1876	18,473,154	311,076,171	813,354,987	1,124,431,158	27.7
1877	17,464,810	316,660,281	859,920,536	1,176,5 0,817	26.9
1878	20,477,364	313,050,906	876,991,129	1,190,042,035	26.3
1879	19,423,685	272,015,692	911,269,232	1,183,284,924	23.0
1880	20,081,393	258,346,577	1,224,265,434	1,482,612,011	17.4
1881	25,452,521	250,586,470	1,269,002,983	1,519,589,453	16.5
1882	34,973,317	227,229,745	1,212,978,769	1,440,208,514	15.8
1883	48,092,892	240,420,500	1,258,506,924	1,498,927,424	16.0
1884	46,714,068	233,699,035	1,127,798,199	1,361,497,234	17.2
1885	45,332,775	194,865,743	1,079,518,566	1,274,384,309	15.3
1886	43,700,350	197,349,503	1,073,911,113	1,271,260,616	15.5
1887	48,951,725	194,356,746	1,165,194,508	1,359,551,254	14.3
1888	54,356,827	190,857,473	1,174,697,321	1,365,554,794	14.0
1889	66,664,378	203,805,108	1,217,063,541	1,420,868,649	14.3
1890	73,571,263	202,451,086	1,371,116,744	1,573,567,830	12.9
1891	72,856,194	206,459,725	1,450,081,087	1,656,540,812	12.5
1892	72,948,067	220,173,735	1,564,558,808	1,784,732,543	12.3
1893	87,984,041	197,765,507	1,428,316,568	1,714,066,116	11.5

NOTES.—1. The amounts carried in cars and other land vehicles were not separately stated prior to July 1, 1870. 2. Exports are stated in mixed gold and currency values from 1862 to 1879, inclusive.

TREASURY DEPARTMENT,
OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
Washington, D. C., October 25, 1893.

SIR: At the request of the chief clerk of the Post-Office Department I have the honor to make the following statement showing the cost of ocean mail service for the fiscal years ended June 30, 1891, 1892, and 1893:

Fiscal year.	Amount paid on actual weight of mail conveyed.	Amount paid under subsidy contracts.	Total amount paid for ocean mail service.
1891	$629,446.79		$629,446.79
1892	687,164.01	$120,675.00	807,839.01
1893	599,303.59	498,563.66	1,097,867.25
Total	1,915,914.39	619,238.66	2,535,153.05

Respectfully,

JNO. B. BRAWLEY,
Auditor.

Hon. GEORGE W. FITHIAN,
House of Representatives.

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, D. C., October 4, 1893.

SIR: Referring to your letter dated the 3d instant, this office has to state that the total sailing vessels of the United Kingdom aggregate 2,535,739 tons, excluding vessels under 100 tons. This office has no statistics showing the tonnage of such vessels under 100 tons.

Respectfully yours,

E. C. O'BRIEN,
Commissioner.

Hon. GEORGE W. FITHIAN,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives.

TREASURY DEPARTMENT,
Washington, D. C., October 24, 1893.

SIR: Referring to your telegram of the 23d instant, addressed to the Secretary of the Navy, I have the honor to forward herewith a statement prepared in the Bureau of Navigation of this Department, showing the tonnage in the foreign trade for the years since 1850, inclusive, and the percentage of increase or decrease in each instance.

Respectfully yours,

S. WIKE,
Assistant Secretary.

Hon. G. W. FITHIAN,
Chairman Committee on Merchant Marine and Fisheries,
House of Representatives.

Vessels of the United States in the foreign trade.

Year.	Tons.	Percentage of increase (+) and decrease (—).	Year.	Tons.	Percentage of increase (+) and decrease (—).
1850	1,439,094	.144+	1872	1,359,040	.003—
1851	1,544,663	.073+	1873	1,378,533	.014+
1852	1,705,650	.104+	1874	1,389,815	.008+
1853	1,910,471	.120+	1875	1,515,598	.090+
1854	2,151,918	.126+	1876	1,553,705	.025+
1855	2,348,358	.091+	1877	1,570,600	.010+
1856	2,302,190	.020—	1878	1,589,348	.012+
1857	2,268,196	.015—	1879	1,451,506	.087—
1858	2,301,148	.014—	1880	1,314,402	.094—
1859	2,321,674	.009+	1881	1,297,035	.013—
1860	2,379,396	.025+	1882	1,259,492	.029—
1861	2,496,894	.049+	1883	1,269,681	.008—
1862	2,173,537	.129—	1884	1,276,972	.006+
1863	1,926,886	.113—	1885	1,262,814	.011—
1864	1,486,749	.228—	1886	1,088,041	.138—
1865	1,518,350	.021—	1887	989,412	.091—
1866	1,387,756	.086—	1888	919,302	.071—
1867	1,515,648	.092+	1889	999,619	.087+
1868	1,487,246	.019—	1890	928,062	.071—
1869	1,496,220	.006—	1891	988,719	.065—
1870	1,448,846	.032+	1892	977,624	.011—
1871	1,363,652	.059—	1893	883,199	.097—

TREASURY DEPARTMENT, BUREAU OF STATISTICS,
Washington, D. C., October 23, 1893.

DEAR SIR: I send you herewith a diagram intended to show the progress of the decline in the percentage of our foreign commerce carried in American vessels. It is based upon the table that appears in the annual volume of Commerce and Navigation, but I think appeals more readily to the eye than the table does to the mind. I also send you a comparative statement intended to show the relative growth of our foreign trade, as expressed by values and the proportions carried in American vessels. I cover five years—1859, 1870, 1880, 1890, and 1893. It is prepared on mathematical principles—that is, the extent of each square bearing a fixed relation to the value of the trade represented. Here, again, I think such a statement is more easily apprehended by the average intelligence than a mere comparison of figures. You are at liberty to make such use of this material as you see fit.

Yours respectfully,

WORTHINGTON C. FORD,
Chief of Bureau.

Hon. GEO. W. FITHIAN, M. C.,
House of Representatives.

NAVY DEPARTMENT,
OFFICE OF NAVAL INTELLIGENCE,
Washington, October 11, 1893.

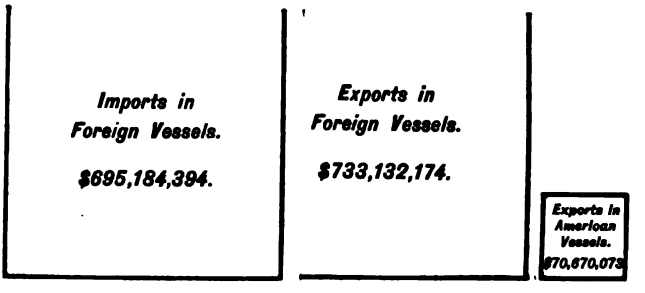
SIR: In response to your request of October 3 to the honorable Secretary of the Navy, I take pleasure in forwarding you the inclosed information in regard to the amounts paid by the British Government in subventions to the different steamship lines with which it has entered into admiralty contracts from the beginning of the system up to the end of the last fiscal year of that Government.

I beg to draw your attention to the fact that the subventions stated in the columns are in addition to the amounts received by these companies under mail contracts. The admiralty subvention for right of preëmption of vessels in time of war are given separately, as they represent the amounts of money received by the steamship companies; the other columns, showing admiralty expenses for fitting supports and platforms for armament, show the money expended by the admiralty for preparing the ships for the reception of guns, etc., either by the Government or private firms, and these figures, therefore, do not represent any pecuniary benefit to the steamship companies.

Very respectfully,

F. SINGER,
Chief Intelligence Officer.

Hon. GEORGE W. FITHIAN,
Chairman of the Committee on Merchant Marine and Fisheries,
House of Representatives, Washington.



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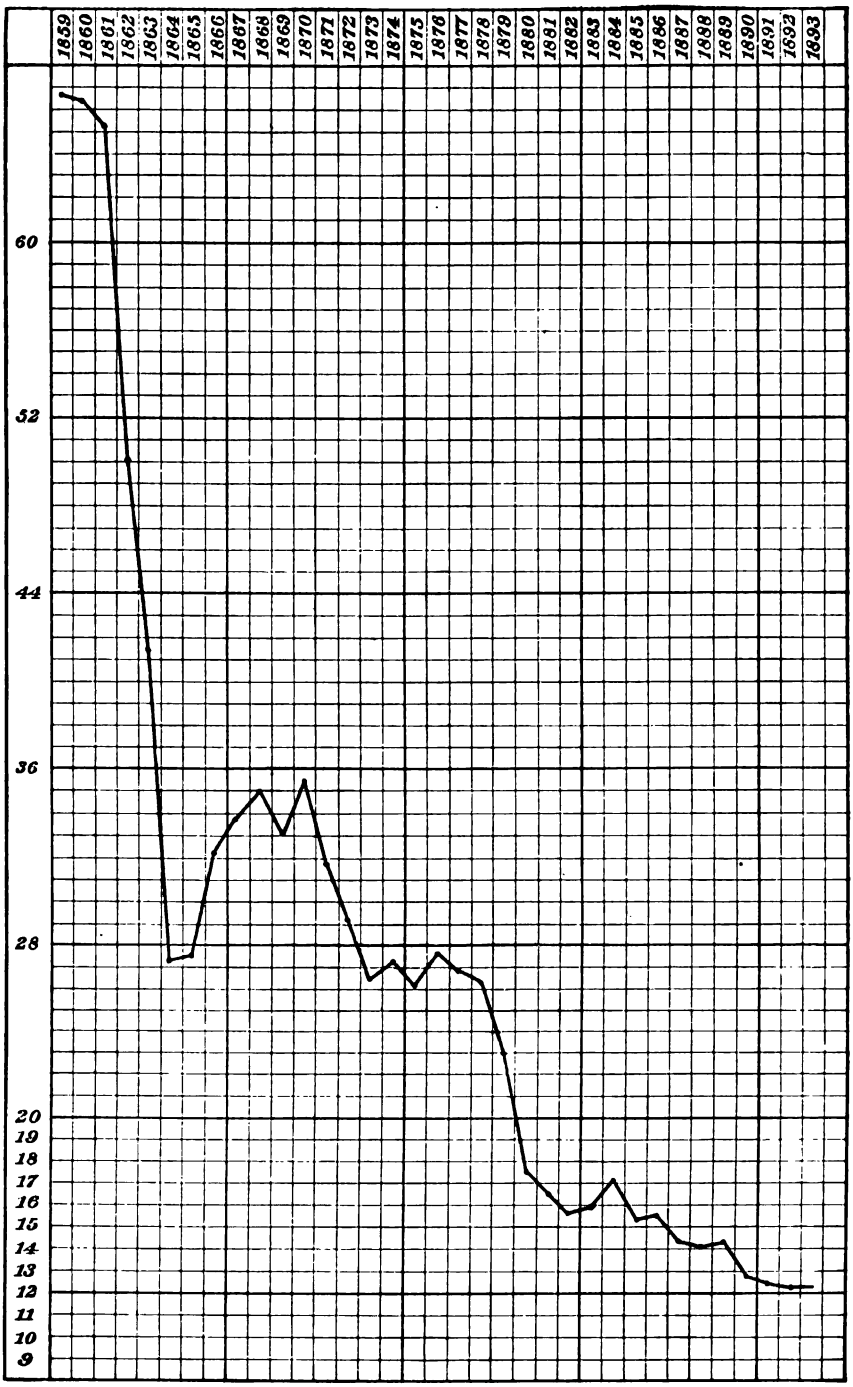
WORTHINGTON C. FORD.

Diagram showing per cent of foreign trade of United States carried in American vessels, 1859–1893.



WORTHINGTON C. FORD.

[Memorandum concerning the British admiralty subventions.]

Amounts paid to different steamship lines.

Line.	Year.	Admiralty subventions for right of pre-emptions.	Admiralty expenditures for fitting supports and platforms for armament.
Cunard	1887–'88	$48,343.81	$24,259.50
	1888–'89	82,871.63	.....
	1889–'90	82,866.76	.....
	1890–'91	82,866.76	.....
	1891–'92	93,918.58	.....
		390,867.54	24,259.50
Peninsula and Oriental	1887–'88	.....	35,637.38
	1888–'89	25,850.85	3,829.94
	1889–'90	51,706.56	.....
	1890–'91	51,706.56	.....
	1891–'92	51,706.56	.....
		180,970.53	39,467.32
Inman	1888–'89	.....	7,299.75
	1889–'90	.....	8,029.72
	1891–'92	84,312.11	.....
		84,312.11	15,329.47
White Star	1889–'90	17,675.13	13,407.21
	1890–'91	53,341.71	.....
	1891–'92	71,342.89	.....
		142,359.73	13,407.21
Canadian Pacific	1891–'92	24,337.37	.....

The fiscal year ending March 31, 1892, is the late stone for which the actual expenditures for admiralty subventions can be stated.

The navy appropriations for the fiscal year ending March 31, 1893, make provision for the payment of the following amounts in the case of the steamship lines here specified:

Cunard	$65,729.38
Peninsula and Oriental	60,318.26
Inman	46,835.84
White Star	71,340.45
Canadian Pacific	35,586.28

(Value: £1=$4.8665.)

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., April 7, 1892.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, requesting me to furnish you with a "statement showing the expenditures on account of the post-office packet service, from the year 1868-'69 to the present time, or to the last fiscal year, of the British post-office for the conveyance of the mails."

In reply, I have to inform you that the annual expenditures of the British post-office department, on account of the "post-office packet service," were published for the first time in the report of the postmaster-general of Great Britain for the fiscal year ended March 31, 1871; so that it is not practicable to furnish you with the desired information for the years preceding the fiscal year ended March 31, 1871; but since that time the amounts reported by the British postmaster-general as expended annually on that account are reported as follows, viz:

For the fiscal year ended March 31—

1871	£1,009,912 =	$4,914,231
1872		No report.
1873	1,013,694 =	4,932,635
1874	1,028,108 =	5,002,773
1875	879,256 =	4,278,459
1876	701,567 =	3,413,825
1877	741,962 =	3,610,387
1878	652,362 =	3,174,393
1879	649,330 =	3,159,641
1880	636,356 =	3,096,508
1881	604,834 =	2,943,122
1882	592,705 =	2,884,102
1883	607,384 =	2,955,530
1884	594,831 =	2,894,447
1885	608,766 =	2,962,226
1886	538,567 =	2,620,667
1887	596,323 =	2,901,707
1888	588,403 =	2,863,168
1889	516,153 =	2,511,600
1890	691,015 =	3,362,478
1891	697,539 =	3,394,224

I am, very respectfully, your obedient servant,

JNO. WANAMAKER,
Postmaster-General.

Hon. GEORGE W. FITHIAN,
House of Representatives.

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D. C., October 28, 1893.

SIR: In compliance with your verbal request that the statement contained in letter of this Department No. 101433 of the 7th of April, 1892, showing the annual expenditures of the British post-office department on account of the "post-office packet service" during the years from 1871 to 1891, inclusive, be completed by a statement of the annual expenditures on the same account during the years 1892 and 1893, I have to inform you that the desired information is derived from the annual reports of the postmaster-general of Great Britain, and that the latest of these reports that has been received at this Department is the one for the fiscal year ended March 31, 1892, which shows that the expenditure on the account referred to for that fiscal year amounted to, £732,626, or $3,564,958.

Letter No. 101433, above referred to, is herewith returned.

I am, very respectfully, your obedient servant,

W. S. BISSELL,
Postmaster-General.

Hon. GEORGE W. FITHIAN,
House of Representatives.

O

FREE ADMISSION TO AMERICAN REGISTRY OF SHIPS BUILT IN FOREIGN COUNTRIES.

JUNE 9, 1894.—Referred to the House Calendar and ordered to be printed.

Mr. PERKINS, from the Committee on Merchant Marine and Fisheries, submitted the following

VIEWS OF THE MINORITY:

[To accompany H. R. 2655.]

The undersigned members of the Committee on Merchant Marine and Fisheries are unable to agree with the majority of said committee, who have submitted a favorable report on H. R. 2655—"A bill for the free admission to American registry of ships built in foreign countries." The undersigned, therefore, beg to submit their views in opposition to the passage of the bill, a bill, in their judgment, more fitly entitled to designation as a bill to destroy American shipbuilding in the interest of foreign countries.

The report of the majority of the committee, it may be observed in passing, is wholly occupied in placing the worst possible estimate upon the present condition of our own merchant marine. The ambition of the majority of the committee seems to be satisfied in attempting to prove the decay of a great American industry and in urging the hopelessness of a better period under dependence upon American industry and genius. The minority of your committee are not disposed to accept so despondent a view, nor are they disposed to make argument wholly on the darker side. Attention is respectfully directed to the fact that the majority of your committee, in the report they have submitted in support of the bill, confine themselves to the most discouraging view of American competitive efforts, and makes this the only excuse for an abandonment of a distinctive national policy that has thus far been undisturbed through all the successive changes of party and of administration since its initiation at the very threshold of our Government. Let it be particularly noted that no attempt is made by those who appeal for this surrender to establish that the passage of this bill into law would in any wise prove helpful to the Government of the United States or to the shipping interests of its citizens. The proposition is for unconditional surrender to foreign powers, both of the profits and safeguards involved in the maintenance of our independence as the builder of our own ships. That the adoption of this course would prove highly satisfactory to Great Britain and other important maritime powers need not be questioned; that it would prove other than a humiliation to this republic, a certain disgrace and a possible disaster, may be accepted as equally probable.

We may all be excused for regretting that our merchant marine is not more prosperous than it is, but it is quite another thing to ask excuse for magnifying our disadvantages and for making this exag-

geration a basis of appeal to the Congress of the United States for an abandonment of effort to place and maintain our own ships upon the seas. Suppose this country should assent to the proposition. We look in vain to the report of the majority of the committee for any statement of the advantages that would accrue; for any evidence that it would in the least enhance the maritime power of the United States; that we should have greater security in war or greater prosperity in peace. If the policy of our Government in this regard from its foundation until now is to be set aside, it becomes the advocates of such departure to establish affirmative reasons for the change. But they content themselves with mere negation. They cry ruin, and suggest no plan for rehabilitation; they tell us of the cheapness of English ships, and beseech us to sell wheat and cotton and buy ships.

The course proposed in this bill is wholly opposed to American interests and to the American spirit. It proposes a still further blight upon American enterprise and upon American industry. Argument in support of it must come wholly from the Clyde.

The discussion of this question may be carried on quite apart from the matter of "bounties," or "subsidies," to which the majority of the committee devote so much attention. And yet there is no reason why this country should be particularly alarmed by the sensorial repetition of these terms. It is improbable that we will resort to a bounty system in the sense pointed out to us, and yet we may agree with the statement of an American shipbuilder that "steamship owners who perform public service by transporting ocean mails undoubtedly expect pay for it," and there is no apparent reason why this country may not invite and pay for such service as well as countries with which it is chiefly in competition.

During the year 1893 England, France, Germany, Russia, and Italy paid, roughly, $16,657,865 for the transportation of their mails by sea. While it is not intended here to enter upon a discussion of the policy of encouraging the transportation of American mails in American ships, as contemplated in the act of March 3, 1891, it may yet be observed that if the example of England is to be set before us in certain particulars there appears no good reason why such an example should be held unworthy of emulation in this one particular. This appears to be the more conspicuous in view of the fact that England is acknowledged to have been so entirely successful in its maritime police that it is now urged as useless for the United States longer to stand out against the complete dominance of England of the shipping of this country.

In this connection, however, and in view of the statement in the last report of the Post-Office Department that the act of March 3, 1891, has not resulted in any improvement of the merchant marine, it may be well to direct attention to an American line of transatlantic grayhounds created since that date, and the five new vessels therefor under construction. Nothing afloat will surpass these vessels.

But let us try to get to some of the broader lines of this issue. The majority of your committee declare that the object of the law of 1792, which it is proposed to repeal, "was to give protection to our shipbuilding, then an infant industry." No doubt it was the purpose of the fathers of the republic to afford protection to the shipbuilding industry, but they had even a more patriotic purpose than that. Mr. Madison, in the House of Representatives, May 4, 1789, declared the legislation essential because "we have maritime dangers to guard against, and we can be secured against them in no other way." Mr. Jefferson, in his report on commerce, said of our navigation: "As a branch of industry

it is valuable, but as a resource of defense it is essential." It would be easy to occupy space here with quotations of the highest authority in amplification and confirmation of this view. It was the judgment of these early patriots that an American merchant marine could be maintained only by maintaining our own "citizen seamen, artists, and establishments in readiness for shipbuilding." Their judgment was that we should build our own ships, for the purposes of national security, and for the purposes of national prosperity. In that opinion they have had confirmation to this day. Admiral Porter, before a Senate committee of the Forty-ninth Congress, declared that we should follow the example of Great Britain in encouraging private shipbuilding yards—"when war comes we should have these great shipbuilding places with their plants accumulated during peace."

If we are to render ourselves dependent upon foreign countries for the ships comprising our merchant marine because they are cheaper, shall we also be dependent upon foreign countries for our Navy? We are proud of our new Navy, yet when we began it English builders were competitors for our orders. It is to the credit of Secretary Whitney that he resisted their importunities. We are proud of the American Navy not only because it is ours, but more particularly because these new ships are the work of American genius and American labor, and as such rival the best productions of the world. We could have bought the ships cheaper. We might have done so and have had inferior ships, and have utterly prevented the development which has resulted and wherefrom we have established our ability—established it before the whole world—to build and equip the greatest ships afloat.

This fact is well attested in the recent proposal of an American company to the British admiralty to bid for contracts to build two of the most important battle ships or cruisers in contemplation for the enlargement of Her Majesty's navy. It is now settled, and that is an achievement of recent years to be proud of, that we can build as good ships as can be built anywhere, and that we can build them cheaper than any country save England. Even a dream of competing with England for the construction of its own war ships could not have been had but for the preservation of our shipbuilding interests under the law of 1792, which it is not sought to repeal. It is unfortunate just at this time that the work of building the new Navy should be suspended as to new contracts, for it is in the work of constructing such battle ships as the *New York*, the *Columbia*, the *Indiana*, and the *Minneapolis*, that we have done so much to establish beyond cavil our ability to cope with any power in the building of the most formidable of modern ships, and at the same time have done so much to equip ourselves in this field for successful competition against the genius skill, and capital of the world.

There is less reason now for this assault upon our navigation laws than has heretofore existed at any time since the close of the civil war. The industries of our country are having burden enough to bear, and the field of profitable employment is being sufficiently reduced, to remove temptation at this time, it would seem, to transfer our shipbuilding industry, with its correlated employments, to foreign shores, on the mere pretext that Americans can buy ships abroad cheaper than they can buy them at home.

It is assumed by the majority of your committee that if their bill for the free admission to American registry of ships built in foreign countries were to become law that at once American citizens would largely

increase their investments in ships, put them under our flag, and promptly restore the maritime power of the United States to full vigor. No evidence is presented to show that any such result would follow. It is well to keep in mind some of the essential facts in regard to our foreign commerce. Hon. Edward C. O'Brien, ex-Commissioner of Navigation, in his report for 1893, says:

The failure of American vessels in foreign commerce, commonly characterized as "the decadence of American shipbuiding," has been much debated during the last twenty-five years. * * * The causes to which this failure of American maritime enterprise is attributable are the substitution of steam for sailing vessels in oceanic commerce, the substitution of wood for iron as a shipbuilding material, the fact that the cost of material and of labor in our shipbuilding is very much less in Great Britain than in the United States, and the fact that the cost of operating foreign vessels is much less than the cost of operating American vessels, to which must be added the fact already stated that under our laws and treaties American vessels are forced to compete on equal terms with the vessels of foreign nations when engaged in our own foreign commerce. Besides all this, the fact must be mentioned that American capital has found a vastly larger and a much more profitable employment in the internal industries of the United States than is offered in the struggles of international competition on the ocean. Consequently American capitalists have neglected the foreign carrying trade for the greater inducements held out by domestic enterprise.

This is a concise statement of facts, and it would be folly to ignore these facts in passing upon the merits of the issue presented to us. We are asked to ignore all the conditions save one: that ships are built cheaper abroad than they are built at home. The first cost of the ship is not the controlling consideration. The profitable employment of the ship is the controlling consideration. Capital invariably seeks its most profitable employment, and American capital has not been finding its most profitable employment in the field of competition for the carrying trade of the high seas. There is little analogy between the conditions here and the conditions in England. The important commerce of our country is our internal commerce. The important commerce of England is its foreign commerce. We seek to protect our own. England seeks to aggrandize to itself the commerce of other peoples. We shall become rivals of England in this field with increasing strength as time passes, but the dictates of wisdom are clear that we first take care of our own.

Meanwhile we may well indulge the doubt that we can not take away from foreigners their carrying trade by the experiment of free ships. The conviction may well be indulged that instead of that we would, through this experiment, accomplish no other result than to greatly cripple if not destroy our own shipbuilding interests and mark a long postponement of the inauguration of that successful rivalry in the carrying trade of the seas, appealing to the patriotism and ambition of the American people. If this foreign commerce is to be commanded for American ships under our flag, the trade must be controlled by American merchants and underwriters in the interest of American commerce. The difference in the cost of construction of an American-built and a foreign-built ship is not a controlling factor—it is not a consideration of prime importance.

We are not left to simple speculation upon this proposition. In the views of a minority of a committee of the Forty-ninth Congress, in opposition to a similar bill to that now under consideration, the following was incorporated:

The whole subject has recently been carefully investigated by the Italian Government, which, notwithstanding Italy has had all the alleged benefits of a free-ship policy for twenty years, finds that of 2,904,969 tons of merchandise landed at or shipped from Italian ports in the year 1882, only 293,883 tons were carried in Italian steamers,

while 2,133,133 tons were carried in English steamers. Referring to the views of Italian statesmen on the efficacy of the free-ship policy, U. S. Consul Cram, at Milan, in a report to the State Department of November 5, 1883, says: "Italians have been at liberty for more than twenty years to buy steamships on the Clyde or elsewhere, but this privilege has done nothing for the expansion of the steam marine. The policy of free ships has had a long trial in France, Germany, Austria, and other countries with no better result. History affords no example of a seagoing people who are not also a shipbuilding people. The industries of shipbuilding and navigation are so wedded by a community of interests that they can not be divorced without mutual destruction. Flourishing shipyards levy a tribute upon the skill, labor and resources of a country, and direct its attention and energies to seagoing enterprises as nothing else can. Even if this were not so, the difficulties of negotiating the purchase on favorable terms of costly steamships in distant countries, or of arranging credits, of securing the faithful construction of types required for particular services and other apparent disadvantages, would be sure to bring disappointment to a people trusting to foreign shipyards for its marine. This is the view universally taken in Italy and the aim will be to infuse life and vigor into shipbuilding establishments.

The United States has only become initiated in the business of building modern iron and steel vessels. Our progress has been such as to give encouragement, and it would be folly to abandon the field now. The cost of American ships over the cost of foreign ships is chiefly confined to the higher wages paid here to mechanics and laborers. If, as some think, we are now engaged in equalizing wages, the more reason why we should maintain our navigation laws as they are. Up to this time, however, a comparison of wages paid in American and British yards show that the American rate of wages is close to double what the British rate is. The wages of seamen in this country, it is also to be noted, is about 30 per cent higher than the prevailing rate abroad. This explains why we have so few American seamen.

What we should strive for is not the "cheapest" ships, but the best ships. By going abroad for our ships we can get the cheapest, pending, at least, the annihilation of our own shipbuilding industry. By continuing the policy of building our own ships we can get the best. Not only this, but we can encourage our own artists, give employment to our own labor, maintain in our individualism and independence, and at the same time effectually guard, as has been said, "a military art of vital consequence to national existence."

The bill reported by the majority of your committee for the free admission to American registry of ships built in foreign countries contains a proviso. This is it:

Provided, That any vessel so purchased and registered shall not be used or allowed to engage in the coastwise trade of the United States.

But if we are to admit vessels of foreign build to free registry for our foreign trade why not for our coastwise trade? Excuse can only be made in confession that as to such trade existing law affords protection that should be preserved, though it is true the effort to repeal our navigation laws has not always been confined in its application to vessels employed in our foreign commerce. The distinction hardly rests on a logical basis, and it may be suggested that the extension of free registry to vessels engaged in the coastwise trade would be a natural sequence of the legislation proposed in the present bill. And why not? Why should merchants engaged in our coastwise trade be denied the cheapest ships while that privilege is granted to merchants engaged in our foreign trade? By the decline in the shipbuilding industry under the operation of the legislation proposed, demand would naturally follow for authority to put into commission in our coastwise trade vessels built abroad as the only way to adequately meet the demands of the trade. The demand for the free registry of foreign-going ships is a

demand for the free registry of all ships. John Roach, speaking to a national convention of ship-owning and other commercial bodies in Boston in 1880, said:

The only effect of the repeal of the navigation laws, about which so much is said and which the English interest has most at heart, would be, gentlemen, *the first wedge driven by English shipowners to get possession of our coasting trade and inland water routes, as they did of our foreign trade when we were plunged in war and helpless.*

It is well for us to be thoughtful over this prophecy.

The figures presented by the majority of your committee, as before observed, are quoted primarily to convey the most lugubrious view of American shipbuilding. While under proper analysis these figures are not so bad as it is hoped by the majority they appear, when we take account of our transition from the wooden ship to the iron ship and related conditions, it is not difficult for the friends of American shipbuilding to turn to hopeful and encouraging figures. The minority of your committee invite attention to the disclosures of the census of 1890. The statistics are summarized in the Seaboard (New York), of April 19, 1894, as follows:

The Census Bureau has recently issued two advance prints of statistics on manufactures that include full data in regard to the shipbuilding of the United States for the year 1890.

From these it appears that there are 1,010 establishments engaged in this business, with a capital of $53,393,074; with plants valued at $39,870,665; land valued at $14,294,878; buildings worth $10,170,301, and tools, machinery, etc., worth $15,405,-486; employing 25,934 persons, who receive $16,028,847. The cost of materials used in that year was $16,925,109, and the value of the product was $40,342,115, including receipts from repairing.

The above data, applied nationally to this industry, already shows that it is fairly well established and by no means awaiting a free-ship bill in order to induce the investment of capital sufficient to create what the free-ship advocates so glibly roll under their tongue in the phrase "a nucleus of shipbuilding establishments in the United States."

Taking the distribution of the industry geographically, and we find that New York leads the list, reporting 217 establishments, with a capital of $16,481,649 invested, employing in that year 5,529 persons, who received in wages $3,810,394, the materials used in building costing $2,499,835, the value of the products being $7,581,570. Massachusetts comes next in number of establishments, but California ranks second in the value of them, with Virginia a very close third in financial value. California has 33 establishments, the capital invested in which is $6,863,308, which employed 1,792 persons, who received in wages $1,468,989 and produced vessels to the value of $3,547,331. Virginia has 18 establishments, the capital of which is $6,388,976, employing 510 persons, who were paid $345,457. The States whose plants devoted to shipbuilding are worth more than $1,000,000, exclusive of those already mentioned, are: Deleware, 11 of which are valued at $1,745,213, employing 1,802 persons, who received wages in the sum of $899,151 and produced vessels to the value of $2.044,313; Maine, 85 establishments, capitalized at $1,027,756, employing 1,539 persons, who received in wages $843,715 and produced vessels to the value of $2,818,565; Maryland, 34 establishments, capitalized at $1,315,262, employing 1,075 persons, who received $649,342 in wages and produced vessels of a value of $1,737,674; Massachusetts, 147 establishments, capitalized at $1,239,928, and produced vessels valued at $2,248,647; Michigan, 62 plants, valued at $3,266,472, employing 2,284 persons, who were paid $1,267,105, and whose product was valued at $4,710,108; New Jersey, 62 establishments, capitalized at $2,165,104, employing 1,186 persons, who received therefor $890,789 and produced vessels valued at $2,592,420; Ohio, 44 establishments, valued at $2,950,811, employing 2,822 persons, who were paid $1,521,212, who built vessels valued at $13,804,838; Pennsylvania, 32 plants, capitalized at $2,443,063, employing 2,022 persons, whose wages amounted to $1,215,876, and whose product was valued at $3,239,770.

It will be recollected that in 1890, when these statistics were collected, that the Maryland Steel Company, of Maryland, the Newport News Shipbuilding and Dry Dock Company, of Newport News, Va., and the shipbuilding department of the Bath Iron Works had either just been projected or were not completed, and these establishments represent between $6,000,000 and $7,000,000 of invested capital. If a nucleus is at all needed in which to establish the shipbuilding industry in the United States, surely it is at hand here completely. Doubtless the 1,010

shipbuilding establishments are capable of almost unlimited extension. Considerably less than 100 shipbuilding companies in Great Britain annually produce 99 per cent of her vast products in ships, engines, boilers, etc. And thereare 20 establishments now engaged in shipbuilding in this country where steel and iron vessels of the finest kind can be built—a pretty good nucleus, by the way, in itself.

The United States is now only second to England as an iron shipbuilding country. And be it further noted that an iron ship is built here at the present time cheaper than in any other country except England "and cheaper than it could have been built on the Clyde when her builders had been an equal time in the business." If we had labor as cheap as England we could underbid her for the shipbuilding of the world. We may believe that, and yet stand opposed to the proposition of this bill. The repeal of existing law, it may be asserted with confidence, would prove of no advantage to our foreign commerce, the contemplated action would not enlarge our dominion over the commerce of the world; it would effect the change of no material condition except this: that we would have surrendered at our most vulnerable point to our greatest rival.

It is worthy of note, in the judgment of the minority of your committee, that no appeal has come to this Congress from the shipping interests of our own country for the passage of this bill. This is a most significant fact.

Let us then stand for American ships for the American merchant marine; for American ships in an American navy; holding to the faith that our own are best, are cheapest, are safest, and that dependence upon our own competition is a reliance preferable to dependence upon the friendship and competition of foreign powers.

GEO. D. PERKINS.
FRED. H. GILLETT.
T. W. PHILLIPS.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 149.

MILLE LAC INDIAN RESERVATION.

OCTOBER 30, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HALL, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. Res. 31.]

The Committee on the Public Lands, to whom was referred the joint resolution (H. Res. 31) for the protection of those parties who have heretofore been allowed to make entries for lands within the former Mille Lac Indian Reservation in Minnesota, have had the same under consideration and report it back with the recommendation that it pass.

The Mille Lac Indian Reservation (owned by the Chippewas) was ceded to the United States in 1863 and had been declared open to entry by successive decisions of the Department of the Interior.

The most of the lands were entered prior to January 14, 1889. An act approved January 14, 1889 (25 Stat., 642), provided for the purchase from the Chippewas of all their reservations in Minnesota (except the Red Lake Reservation), and also for the sale of the lands, and the setting apart of the proceeds of such sales as a trust fund for the Indians. This act further provided for an examination of the lands, and their separation into "pine lands" and "agricultural lands." The "pine lands" were to be sold at auction at their appraised value, and not less than $3 per acre, and the "agricultural lands" were subject to entry under the homestead law.

On January 9, 1891, the then Secretary of the Interior held that the Mille Lac Reservation, having been ceded in 1863, was not embraced in the reservations covered by the act of January 14, 1889, and, therefore, that the Mille Lac lands were subject to disposal as other public lands under the general law.

Under this ruling, and prior to May 3, 1892, there were made upon these lands 109 homestead entries, aggregating 13,628 acres, and 131 preëmptions, aggregating 17,991 acres, and 1 soldier's declaratory statement, covering 40 acres; in all, 31,659 acres.

Afterwards, on April 22, 1892, the Secretary of the Interior reversed his former ruling and held that the lands were not subject to disposition under the general land laws, but under the special provisions of the act of January 14, 1889. This decision was communicated to the local land offices on May 3, 1892.

The object of the pending bill is to confirm the entries of said lands, made in good faith under the ruling of January 9, 1891, and between that date and the time when said ruling was reversed and the local land officers notified thereof. The occupants of these lands made their entries and paid their money under the general land laws and in

accordance with the ruling of the Secretary of the Interior. The subsequent reversal of that ruling by the same Secretary ought not to deprive them of their equitable right to these lands.

The present bill was approved by the late Secretary of the Interior, passed the Senate, and was favorably reported to the House in the last Congress. It also meets the approval of the present Secretary of the Interior and of the Commissioner of the General Land Office.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 150.

ADDITIONAL ASSOCIATE JUSTICES, SUPREME COURT OF OKLAHOMA.

OCTOBER 30, 1893.—Referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BRODERICK, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 288.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 288) to provide for three additional associate justices of the supreme court of the Territory of Oklahoma, and for other purposes, have had the same under consideration, and have adopted and now submit the following report:

There are at least 250,000 citizens in the Territory of Oklahoma. There are twenty-three organized counties in said Territory, and the dockets and business of the courts are behind in each of the older counties. In some instances prisoners have remained in jail nearly a year because the judges were unable to give each county two terms of court each year.

There are now three judges in the Territory, and they are required to hold a district court in each of the counties for the transaction of business arising under the laws of the Territory. They are also required to hold court in each of the three districts for the trial of cases and disposition of business arising under the laws of the United States. In addition to the work of the trial courts, as herein stated, the same judges are required to meet at least once a year and sit at the seat of government as a supreme court to dispose of appeals from their trial courts, both Territorial and Federal, and such original business as the law authorizes, and we are informed that in order to clear the docket this court should meet twice a year.

The committee is clearly of opinion that the three judges can not discharge the duties required by law so as to give the people the court facilities to which they are entitled.

Your committee, therefore, recommends that on page 1, in section 2 and line 2, the word "three" be stricken out and "two" inserted; on page 2, in line 9, after the word "Territory," insert "or the chief justice thereof;" and when so amended that the bill be passed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 151.

CERTAIN MORTGAGE DEBTORS.

OCTOBER 30, 1893.—Ordered to be printed.

Mr. OATES, from the Committee on the Judiciary, submitted the following

ADVERSE REPORT:

[To accompany H. R. 3436.]

The Committee on the Judiciary, having had under consideration the bill (H. R. 3436) entitled "A bill for the relief of certain mortgage debtors, and for other purposes," have come to the conclusion that the said bill is unconstitutional in all its parts, in every section, and that Congress has no jurisdiction over its subject-matter.

Your committee therefore, with perfect unanimity, report back the bill adversely, with the recommendation that it lie on the table.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 153.

BRIDGE OVER LITTLE RIVER IN ARKANSAS.

OCTOBER 31, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 1916.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 1916) authorizing the Texarkana and Fort Smith Railway Company to bridge Little River, in the State of Arkansas, report the same back with amendments and with the recommendation that the bill as so amended do pass.

Amend section 1 as follows:

In line 14 strike out the word "eighty" and insert in lieu thereof the word "fifty."

In line 15 strike out the words "or fifty feet above highest water."

In line 41, after the word "and," insert the words "whatever kind of bridge shall be constructed."

In line 42, after the word "sunrise," insert the words "throughout the season of navigation."

The accompanying letters of the Secretary of War and of the Chief of Engineers of the U. S. Army of September 29, 1893, and September 28, 1893, respectively, which are made part of this report, show that, in the opinion of the War Department, there is no objection to the passage of the bill as amended by the last two amendments, so far as the interests of navigation are concerned. The committee is prompted to suggest the first two amendments because it has been satisfied—

First. That it would be physically impossible to put in a bridge at the point of this bridge eighty feet above low water.

Second. That the point where the bridge provided for in this bill will cross the river is many miles above navigation.

WAR DEPARTMENT,
Washington, D. C., September 29, 1894.

SIR: I have the honor to return herewith House bill 1916, Fifty-third Congress, first session, "Authorizing the Texarkana and Fort Smith Railway Company to bridge Little River, in the State of Arkansas," which was referred to this Department on the 16th instant, and beg to invite your attention to the inclosed report of the Chief of Engineers, dated the 28th instant, and to the amended copy of the bill submitted by that officer, who remarks that so far as the interests of navigation are concerned he knows of no objection to the passage of the bill by Congress as amended.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C., September 28, 1893.

SIR: I have the honor to return herewith a letter, dated the 16th instant, from the Committee on Interstate and Foreign Commerce of the House of Representatives inclosing, for the views of the War Department thereon, H. R. 1916, Fifty-third Congress, first session, "A bill authorizing the Texarkana and Fort Smith Railway Company to bridge Little River, in the State of Arkansas," and, in reply to its reference to this office, I beg to say that I know of no objection, so far as the interests of navigation are concerned, to the passage of the bill by Congress, provided it is amended as follows:

Section 1, line 41, after the word "and" insert "whatever kind of bridge shall be constructed;" and after the word "sunrise," in line 42, insert "throughout the season of navigation."

A copy of the bill, amended as proposed, is submitted herewith.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. D. S. LAMONT,
Secretary of War.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 154.

FORFEITURE OF CERTAIN LANDS.

OCTOBER 31, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

MR. ELLIS, of Oregon, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 3544.]

The Committee on the Public Lands have had under consideration House bill 3544, and find it to extend to such persons as are now authorized to purchase certain lands under the act of September 29, 1890, and the several acts amendatory thereof, the permission to make such purchase at any time prior to January 1, 1897.

From the information before the committee we are satisfied that the failure to give persons entitled to purchase under the act referred to would work a great hardship upon a deserving people and doubtless be the means of many of them losing their homes.

It is well known that recently great financial distress has fallen upon the country, and that this condition has borne with especial hardship upon the settlers upon the frontier. In addition to being affected by the aforesaid condition, the information before the committee shows the parties interested have suffered from a partial failure of crops during the past few years, and taking into consideration that, by reason of the first-named consideration, men of wealth are so generally asking for an extension of time upon their current obligations, it is nothing more than simple justice and right that the poor settler who has taken upon himself the hardship of making a home upon the public domain should be extended the same lenity.

Your committee think the extension asked is a just one, and therefore report the bill back with the recommendation that it do pass with the following amendments:

After the word "purposes," in the title of the bill, add "approved September 29, 1890, and the several acts amendatory thereof."

After the word "purposes," in line 5, insert the words "approved September 29, 1890, and the several acts amendatory thereof."

In line 7 strike out the words "in possession of," and insert in lieu thereof the words "entitled to purchase."

And, in accordance with the recommendation of the Commissioner of the General Land Office, after the word "ninety-seven," in line 10, add the following:

Provided, That nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof.

With the foregoing amendments it is desirable that this bill should be promptly passed.

The committee appends the letters of the Commissioner of the General Land Office in relation to this bill and S. 945, which is identically the same as house bill 3544.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 11, 1893.

SIR: I have the honor to acknowledge the receipt by reference from the Department for report of House bill 3544, "To amend an act entitled 'An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes.'"

This bill is identical with Senate bill 945, a report on which has this day been submitted, and I accordingly inclose a copy of said report as embodying the views of this office upon the subject.

The bill and the letter accompanying it are herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR,

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 11, 1893.

SIR: I have to acknowledge the receipt by reference from the Department for report of Senate bill 945, "To amend an act entitled 'An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes.'"

This act proposes to amend section 3 of the act of September 29, 1890, known as the general forfeiture act, so as to extend the time within which persons in possession of lands forfeited by said act shall be permitted to purchase the same in the quantities and upon the terms provided in said section to January 1, 1897.

Said section provided for the purchase by persons possessing certain qualifications as to citizenship, who were in possession of the lands under deed, written contract with, or license from the State or corporation to which such grant was made, or its assignees, executed prior to January 1, 1888, or persons who had settled said lands with bona fide intent to secure title thereto by purchase from the grantee State or corporation, when earned by compliance with conditions and requirements of the granting act, of the land claimed by them not to exceed 320 acres, at the rate of $1.25 per acre, at any time within two years from the passage of the act. By act of February 18, 1891, it was provided that the two years within which the purchase must be made should begin to run from the date of the promulgation of instructions for the restoration to entry and disposal of the forfeited lands by this office. These instructions were given in a large number of the grants in February, 1891, but in cases where questions were pending necessary to be determined before the restorations could be made, the instructions were issued at various times, and in some cases they have not yet been issued.

By act of June 25, 1892, the time for purchase by claimants under said section 3 who were actual residents upon the land, was extended to September 30, 1893, and by act of January 31, 1893, the time within which persons entitled to purchase the forfeited lands on the line of the Northern Pacific Railroad between Wallula, Wash., and Portland, Oregon, was extended to January 1, 1894.

With the exception of the claimants opposite the forfeited portion of the Northern Pacific Road, the rights of persons entitled to purchase under section 3 of the act of September 29, 1890, are governed by the acts of February 18, 1891, and June 25, 1892. those of persons in possession under deed, written contract with, or license from the grantee State or corporation by the former, and actual residents who settled with bona fide intent to purchase from such grantee, by the latter.

Therefore, excepting in the case of claimants for the forfeited lands of the Northern Pacific Road, and in the cases where the restorations have been recent, or not made at all, the time within which a preference right of purchase was allowed has already expired.

The bill under consideration proposes to extend the time for all claimants under section 3 to January 1, 1897, and by the passage thereof, uniformity, which is much to be desired, would be secured, and all claimants given equal rights. And as no one can be injured by its provisions, excepting possibly some persons who may have settled on the lands after the expiration of the time allowed for the purchase thereof, I think the bill should be passed with a proviso that nothing therein shall be so construed as to interfere with any valid adverse claim that may have attached to the land or any part thereof.

The copy of the bill transmitted by you, is herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 155.

ADMISSION OF NEW MEXICO.

OCTOBER 31, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. JOSEPH, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 353.]

The Committee on the Territories, to whom was referred the bill (H. R. 353) to enable the people of New Mexico to form a constitution and State government and to be admitted into the Union on an equal footing with the original States, having had the same under consideration, have instructed me to report the bill back without amendment, and recommend that the same be passed.

This bill provides an enabling act for the people of the Territory of New Mexico, by the terms of which a constitutional convention will be held in the Territory, and the constitution framed submitted to the people for their ratification or rejection. All persons who have resided within the limits of the proposed State for sixty days, and are otherwise qualified by the laws of the Territory to vote for the representatives to the legislative assembly thereof, are authorized to vote for delegates to form the convention.

An apportionment of delegates to the convention is made by the bill in strict accordance with the population of the Territory, as shown by the last census. This is a perfectly fair apportionment and can not be objected to on any possible ground of partisanship.

The governor is authorized to order an election in said Territory on the Tuesday after the first Monday in November, 1894. The number of delegates in the Territory is to be seventy-five.

The constitutional convention will assemble at the capital of said Territory on the first Monday of December, 1894, and when assembled it shall adopt the Constitution of the United States and proceed to the formation of a State constitution. It is provided that such constitution shall be republican in form and make no distinction in civil or political rights as to race and color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. The convention shall further provide by ordinance that perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

The convention shall also provide that the proposed State shall forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within the limits of this State owned or held by any Indian, or any Indian tribe,

and that until the Indian titles thereto shall have been extinguished by the United States, such reservations shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States.

Other provisions usual in enabling acts are preserved, especially that the debts of said Territory shall be assumed and paid by the State and that provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control.

The constitution to be formed shall be submitted to the people of the Territory for their ratification or rejection at an election to be held in said Territory on the Tuesday after the first Monday in March, 1895. If a majority of the votes cast shall be for the constitution, the governor of the Territory shall certify the result to the President of the United States, who shall then issue his proclamation announcing the result of the election, and the State of New Mexico shall then be deemed admitted into the Union.

Said proposed State is to be entitled to one Representative in Congress until the next general census, and the Representative to the Fifty-fourth Congress shall be elected at the election for the adoption of the constitution, and to be elected regularly thereafter as now provided by law.

The sections of the bill from 6 to 14, inclusive, enumerate the grants of land which said proposed State shall receive from the General Government.

In treating this subject the committee thought it necessary, in carrying out the policy established in the acts admitting other States, to vary somewhat from these in detail on account of the different circumstances. New Mexico is the oldest in point of settlement of all the States and Territories. Much of the land is arid without irrigation. The arable and easily irrigable land has to a very large degree been taken up by Spanish and Mexican grants and under the land laws of the United States. The remaining land is to a large extent arid, and until large sums are spent for irrigation it is not of as great value as the arable lands granted to the other States upon admission. The committee has therefore thought it just to the State to grant twice the quantity of land granted to the other States, so that the deficiency in value per acre may be in part made up in the increased acreage.

The grants are so adjusted as to make, as far as possible, the proposed State equal in this respect to the other States heretofore admitted into the Union. First, there is the grant of the second, sixteenth, thirty-second, and thirty-sixth sections of all the lands in said Territory for the support of common schools. One hundred sections are donated to this State for the erection of public buildings at the capital of said State for legislative, executive, and judicial purposes. The usual grants are made for penitentiaries, agricultural colleges, and universities.

It should be noted that New Mexico has shown a great interest in the erection of proper public buildings and has already without Federal aid expended $600,000 for this purpose, as follows:

Capitol	$250,000
Penitentiary	225,000
Insane asylum	25,000
State university	50,000
School of mines	25,000
Agricultural college	25,000

There is also granted to this State 10 per cent of proceeds of the sales of public lands lying within said State, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools in said State. This increase of the percentage on the sales of lands is justified by the following table, showing that New Mexico will receive far less than other States have received on the basis of 5 per cent.

Proceeds of the sale of public lands in the following Territories.

Dakota,	1885	$2,563,769.50
	1886	1,447,399.87
	1887	1,428,032.76
	1888	1,042,892.18
	1889	794,829.35
		7,276,923.66

Five per cent of this sum would yield $363,846.18.

New Mexico,	1887	81,093.91
	1888	75,436.89
	1889	80,011.86
	1890	83,382.89
	1891	92,509.76
		412,435.31

Five per cent of this sum would yield $20,621.76.

Washington,	1885	327,753.18
	1886	246,015.88
	1887	363,461.99
	1888	445,894.41
	1889	644,282.69
		2,027,408.15

Five per cent of this sum would yield $101,370.40.

AGGREGATE.

Dakota	7,276,923.66
New Mexico	412,435.31
Washington	2,027,408.15
	9,716,767.12

It is further provided that in lieu of the grants of land for purposes of internal improvement made to new States by previous acts of Congress, and also grants made for swamp and overflowed lands to certain States heretofore, and in lieu of any grant of saline lands to States heretofore, special grants are given to the proposed State, as follows:

	Acres.
Permanent water reservoirs	500,000
Insane asylum	100,000
State normal schools	200,000
School of mines	100,000
Deaf and dumb asylum	100,000
State reform school	100,000
Total	1,000,000

The whole amount of lands donated to New Mexico by this bill is as follows:

	Acres.
Second, sixteenth, thirty-second, and thirty-sixth sections	8,600,000
Capital buildings (100 sections)	64,000
Agricultural college (100,000 acres)	100,000
University (72 sections)	46,000
Permanent water reservoirs	500,000
Other educational and charitable purposes	600,000
Total number of acres	9,910,000

The manner of selecting these grants and the disposition made of each are pointed out specifically in the provisions of the bill.

ORGANIZATION OF STATE GOVERNMENT.

It is further provided in the bill that the constitutional convention to assemble in this Territory may, by ordinance, provide for the election of a full State government, including members of the legislature and a Representative in the Fifty-fourth Congress at the time of the election for the ratification or rejection of the constitution. In case the constitution of said State shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two Senators of the United States; and the governor and secretary of state of the proposed State shall certify the election to Congress; and when said State is admitted into the Union as provided in this act the Senators and Representatives shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the State government formed in pursuance of said constitution as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the constitution of the State.

AREA AND POPULATION.

New Mexico was organized as a Territory by act of Congress approved March 9, 1850. It comprises an area of 120,210 square miles, or 77,568,640 acres. The Indian reservations in the Territory and the number of acres in each are as follows: Mescalero Apache, 474,240; Navajo, 8,205,440; Zuñi, 205,040; Pueblos, 691,840, making a total of 9,586,225 acres in Indian reservations.

The population of New Mexico by the census of 1860 was 87,034. By the census of 1870 it was 91,874, and by the census of 1880, 119,000, showing a gain of 27,791 in ten years. There was an official census of the Territory in 1885, which showed a population of 134,141, or a gain of 14,576 in five years. By the census of 1890 the population is given at 153,593, an increase of 34,028, or 28.46 per cent in the last ten years. It must be remembered also that the difficulties of enumeration are greater in a mountainous country like New Mexico, and that on account of these difficulties many of the miners and of the sheep and cattle herders were not enumerated. As these industries are of the greatest importance in New Mexico and employ a large number of men, the omissions were necessarily numerous.

The aggregate assessment of taxable property in 1891 is not less than $60,000,000. The growth of the Territory has been retarded very much, owing to the unsettled condition of land titles.

RAILROADS.

There have been 1,445 miles of railroad constructed in New Mexico, represented by ten different corporations, including the Atchison and Santa Fe, Atlantic and Pacific, Southern Pacific, and Denver and Rio Grande. Numerous new roads have been projected.

Governor Thornton, in his report to the honorable Secretary of the Interior, has this to say in regard to new roads:

By an act of the last legislature approved February 13, 1893, new railroads, or extension of existing lines, construction upon which is commenced and some portion thereof opened for traffic, within three years from the date of the act, shall be exempt from taxation until the expiration of six years from and after the completion of the road or roads, they being deemed completed when the same are opened to the public for business.

Under this act considerable construction was had and some little preliminary work done. The stringency of the money market, which has marked the present year, put a stop to the proposed work.

The Pecos Valley Railroad has been completed 97 miles from Pecos City, Tex., to Eddy, N. Mex., and is in process of construction from that point to Roswell and beyond. Over 100 miles of this road have been surveyed and located. It runs through an exceedingly rich country, and the work will be of a very easy character. It will run from Eddy to Roswell, 80-odd miles, with only three tangents. During the next two years it will be completed to a junction with the Santa Fe route. This proposition is, however, extremely important, as it will form the shortest interoceanic route in the United States.

VALUATIONS.

The assessed valuation of all the property in the Territory in 1891 was $45,199,847. Of this amount about $2,000,000 is excluded from taxation under the laws of the Territory. The assessed valuation does not equal more than one-third of the actual value. Property is assessed very low. The railroads operated in the Territory probably cost not less than the amount given as representing the assessed value of all property in the Territory. The assessed valuation increased from 1880 to 1890 300 per cent, or $34,000,000.

TERRITORIAL INDEBTEDNESS.

The following is a tabulated statement of the territorial indebtedness brought down to August 29, 1893:

	Interest.	Due.	Amount.
	Per cent.		
Capitol building bonds	7	1904	$100,000.60
Do	7	1905	100.000.00
Penitentiary building bonds	7	1894	109,000.00
Current expense bonds	6	5-20	150 000.00
Provisional indebtedness fund	6	20-30	200,000.00
Capitol contingent bonds	6	1903	50,000.00
Insane asylum bonds	6	20-30	25,000.00
Casual deficit bonds	5	20-30	75,200.00
Refunding bonds	6	20-30	95,000.00
Outstanding warrants	.....	.....	7,512.27
Total	.....	.....	911,712.27

PUBLIC INSTITUTIONS.

The Territorial institutions of New Mexico reflect credit upon her people. The governor's report shows the following now in operation: University, at Albuquerque; agricultural college, at Mesilla Park; school of mines, at Socorro; the New Mexico military institute, at Roswell; the lunatic asylum, at Los Vegas; an institution for the deaf and dumb, at Santa Fe; and an orphans home and industrial school at the same place. The Territory also maintains a penitentiary and insane asylum. All of which are in a flourishing condition.

LIVE STOCK.

The live stock industry, which includes the raising of cattle, horses, and sheep, is carried on very extensively in New Mexico and is one of the principal sources of its wealth and prosperity.

The latest official returns of the Department of Agriculture give the following statistics: Number of milch cows, oxen, and other cattle, 1,307,957, valued at $14,555,159; horses and mules, 96,750, valued at $2,867,318, and in round numbers 3,000,000 sheep, valued at $5,000,000. New Mexico is only exceeded in the number of its sheep by Ohio, Michigan, California, Texas, and Oregon.

MINERALS.

The mineral resources of New Mexico have long been known. Probably no state in the Union contains a larger area of coal, and of better quality, than is known to exist in New Mexico. The precious metals have been discovered in nearly all parts of the Territory, and in many places are successfully worked. The total value of the precious metals produced in 1890 is estimated at $3,000,000. Doubtless New Mexico is destined to rank as one of the principal mineral producing States in this country.

TIMBER.

New Mexico is supplied with large tracts of timber in her mountains, and, if properly protected from fire, which not unfrequently devastates immense forests in the arid regions of the United States, will afford a plentiful supply of cheap lumber for domestic use and millions of feet for annual export from the State.

EDUCATION.

New Mexico, without the aid of the General Government, has established an excellent system of public schools throughout the Territory. Among its important features are provisions for a board, consisting of the governor, superintendent of public instruction, and the presidents of the university, agricultural college, and St. Michael's College, to select and provide a uniformity of schoolbooks throughout the Territory. A careful supervision of teachers and the authority of school districts to levy special taxes to build schoolhouses and for the support of schools therein are also provided for.

In the annual report of Hon. Amado Chaves, superintendent of public instruction, for the year ending December 1, 1892, we find the following table, which shows the number of teachers, enrollment of scholars, and average daily attendance at the several schools, the number of scholars between the ages of 5 and 20, the number of schools, average number of months taught, with the receipts and expenditures:

Table showing the number of teachers, enrollment of scholars, etc.

County.	Number of districts.	Teachers.			Enrollment.			Average daily attendance.		
		Males.	Females.	Total.	Males.	Females.	Total.	Males.	Females.	Total.
Bernalillo	47	37	28	65	1,830	922	2,752	1,494	777	2,271
Chaves	4	3	3	6	136	93	229	82	45	127
Colfax	39	26	12	38	473	643	1,116	260	300	560
Dona Ana	23	10	16	26	594	404	998	346	255	601
Grant	37	13	32	45	681	564	1,245	516	415	931
Lincoln	39	.....	.....	.....	.....	.....	.....	.....	.....	.....
Mora	46	40	12	52	1,204	887	2,091	588	433	1,021
Rio Arriba	39	35	6	41	1,611	835	2,446	912	701	1,613
San Juan	22	12	10	22	305	184	489	229	138	367
San Miguel	83	74	32	106	2,740	1,730	4,470	1,870	1,124	2,994
Santa Fe	23	24	11	35	902	636	1,538	681	406	1,087
Sierra	12	11	7	18	372	314	686	187	132	319
Socorro	48	26	21	47	1,177	746	1,923	649	392	1,041
Taos	27	23	4	27	753	1,246	1,999	1,049	877	1,926
Valencia	37	26	3	29	934	235	1,169	771	203	974
Total	532	360	197	557	13,712	9,439	23 151	9,634	6,198	15,832

County.	Number of scholars between the ages of 5 and 20 years.			Number of schools.	Average number of months taught.	Receipts.		
	Males.	Females.	Total.			Balance Oct. 15, 1892.	From county school fund.	Licenses, poll tax, fines, etc.
Barnalillo	2,638	2,202	4,840	56	4½	$10,916.64	$9,978.84	$29,920 55
Chaves	274	178	452	5	5½	1,249.10	3,101.50	2,360.60
Colfax	1,207	1,710	2,917	32	3½	.....	.....	.....
Dona Ana	1,523	1,276	2,799	21	5½	6,220.95	5,512.61	6,085.37
Grant	1,535	1,214	2,749	34	4½	31,024.08	6,894.74	11,470.44
Lincoln	1,009	740	1,749	.....	.....	.....	1,632.14	.....
Mora	1,743	1,555	3,298	52	5	.....	.....	2,948.14
Rio Arriba	2,114	1,743	3,857	39	4½	.....	4,429.30	7,322.72
San Juan	348	426	774	20	3½	500.46	1,263.3[illegible]	2,082.57
San Miguel	3,964	3,294	7,258	106	3½	15,747.57	5,971.25	14,757.17
Santa Fe	1,658	1,413	3,071	29	4	6,216.30	4,802.29	10,726.79
Sierra	540	491	1,031	15	5½	2,792.76	4,482.03	4,393.28
Socorro	1,786	1,428	3,214	44	3½	4,796.47	4,816.60	7,623.32
Taos	1,531	1,365	2,896	27	3½	2,784.50	3,007.54	2,293.40
Valencia	1,838	1,256	3,094	28	4½	2,828.01	.....	4,705.55
Total	23,708	20,291	43,999	508	4½	85,106.84	54,260.04	108,322.04

County.	Receipts.	Expenditures.				
	Total.	Teachers' wages.	Rent, fuel, etc.	School-houses and grounds.	On hand.	Total.
Barnalillo	$50,816.03	$23,757.85	$14,619.24	$749.00	$11,689.94	$50,816.03
Chaves	6,711.20	2,402.00	1,360.50	2,080.32	868.38	6,711.20
Colfax	.....	.....	.....	.....	.....	.....
Dona Ana	17,818.93	6,569.33	976.65	5,865.39	4,407.56	17,818.93
Grant	49,389.26	18,872.00	1,793.86	14,441.38	14,282.02	49,389.26
Lincoln	1,632.14	.....	.....	.....	1,632.14	1,632.14
Mora	2,948.14	1,316.00	.....	.....	1,632.14	2,948.14
Rio Arriba	11,752.02	5,891.54	3,463.14	3.00	2,394.34	11,752.02
San Juan	3,846.37	2,320.54	150.56	355.04	1,020.23	3,846.37
San Miguel	36,475.99	17,476.57	5,064.59	8,380.95	5,553.88	36,475.99
Santa Fe	21,775.38	7,003.20	4,000.42	1,525.86	7,645.90	21,775.38
Sierra	11,668.07	5,978.00	1,485.05	1,577.49	2,627.53	11,668.07
Socorro	17,236.39	8,332.45	2,591.22	972.72	5,340.00	17,236.39
Taos	8,085.44	3,013.09	908.37	1,010.00	3,153.98	8,085.44
Valencia	7,533.56	4,462.50	730.55	.....	2,340.51	7,533.56
Total	247,688.92	108,395.07	37,744.15	36,961.15	64,587.55	247,688.92

The value of the public-school edifices at Las Vegas, Albuquerque, Socorro, Santa Fe, and other incorporated cities exceed $2,000,000.

PRIVATE SCHOOLS.

Among the more prominent private institutions of learning are: The Goss Military Institute, at Albuquerque; the Las Vegas Academy, at Las Vegas; the Christian Brothers' colleges, at Santa Fe, Las Vegas, and Bernalillo; schools of the Sisters of Loretto, at Santa Fe, Las Vegas, Bernalillo, Socorro, and Las Cruces; the Sisters of Charity, at Albuquerque and San Miguel, and Sisters of Mercy, at Los Alamos, Silver City, and Mesilla.

The Presbyterian Board of Home Missions conducts twenty-two large day schools and two boarding schools for Mexican children; also four day schools for Indian children. The Methodist Episcopal Church has a college at Albuquerque and has missions at twelve other points. There are academies of the New West Commission at Albuquerque and Las Vegas, a tuition school at Santa Fe, and free schools at four other places. The Government has two schools in New Mexico—the Fisk Institute at Albuquerque and Dawes' Institute at Santa Fe. The Ramona Indian school at Santa Fe, for Indian girls, completes the list.

New Mexico has a State university and Government Indian school at Albuquerque, a school of mines at Socorro, an agricultural college at Las Cruces, an orphan asylum, an industrial Indian school, and two other Indian schools at Santa Fe, and numerous other costly public buildings.

The private schools own property in Santa Fe, Albuquerque, and Las Vegas alone valued at $1,500,000.

NORMAL INSTITUTES.

The success of these institutes, located at Silver City, Albuquerque, Las Vegas, Taos, Mora, and Los Lunas, during the last year has been very gratifying. The superintendent of public instruction, in referring to the subject of teachers, in his report of last year, says:

So far as the quantity and quality of the work of the schools has been affected by the character of the teachers there has been great improvement. During my official visits to the various counties I have noticed with a good deal of pleasure the changes that have taken place for the better and the manner in which the teachers conduct their schools. This is due in a great degree to the normal training which many of the present teachers have received at Las Vegas, Albuquerque, and Silver City, where successful normal institutes have been held, attended by hundreds of scholars.

LAND TITLES.

Governor W. T. Thornton, in his report to the Secretary of the Interior, recently made, has the following to say in regard to the settlement of land titles:

Before considering the question of land settlement it is proper to advert to the work of the United States Court of Private Land Claims. No act of Congress for many years has effected so important an advance towards the permanent prosperity and well-being of this Territory as the act creating this court. The colonization policy of the Spanish and Mexican governments shaped itself in the granting of large areas of land to communities or individuals. The aim seemed to be to attract the mass rather than the individual elements of population. Vast acreages, with undefined and uncertain boundaries, were claimed under many of these grants. Some were valid, others were believed fraudulent. Small tracts were often held under valid grants with exterior boundaries designated by natural monuments, which were

by designing or evil-disposed persons often changed to include territory vastly greater than that to which they were entitled. For many reasons Congress delayed action in this matter for more than a generation after the acquirement of the territory and the guarantee of its ancient land tenures. Clouded titles and insecure tenures of land were therefore uncommonly frequent in New Mexico, creating an almost insuperable obstacle to settlement and a blight on prosperity. That New Mexico has quadrupled her population under American control is a source of wonder to those conversant with the facts. This era, however, is regarded as ended. This court is busily engaged in sifting these grants, establishing absolutely valid titles to just grants, and restoring to the public domain large areas improperly claimed.

The personnel of the court is almost perfect. Their labors have been arduous, but willingly, intelligently, and diligently performed; and I am happy to report that a goodly number of the most important claims have been finally determined. Thousands of acres have been returned to the public domain, and rightful claimants have been vested with legal title to thousands of others.

The statutory period during which claims might be filed in this court expired on March 4, 1893. We have therefore reached the point where we know definitely the number of acres claimed under all sorts of these grants, where they are situated, and the general nature of their titles. This was hitherto confused and confusing. It is now hoped that within a very short time the work of this tribunal will be completed, and the unhappy condition of land titles ended forever in this Territory.

The following is a summary of all the claims that have been presented to this court up to date, showing the acreage claimed in the cases disposed of and also the acreage for which they have been approved:

RECAPITULATION OF THE WORK OF THE COURT OF PRIVATE LAND CLAIMS AUGUST 31, 1893.

Total number of cases filed for land in New Mexico	262
Grants confirmed for land in New Mexico (cases Nos. 1, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 18, 21, 22, 28, 30, 31, 35, 39, 43, 53, 57)	23
Grants rejected for land in New Mexico (cases Nos. 4, 12, 26, 27, 49, 100)	7
Appeal d to Supreme Court:	
By claimants (Nos. 26, 27, 50, 100)	4
By United States (Nos. 1, 31, 35, 43)	4

The following is a complete list of claims determined:

No. case.	Name.	County.	Estimated amount claimed.	Estimated amount confirmed.
1	Cubero	Valencia	47,743	16,000
4	San Antonico del Rio Colorado	Taos	18,000	.....
5	Arroyo Hondo	do	23,040	23,040
6	Sebastian de Vargas	Santa Fe	41,000	14,000
7	B. M. Montado	Bernalillo	151,000	43,597
8	Albuquerque	do	17,361	17,361
9	Lucero de Godoi	Taos	40,000	27,000
10	Rancho del Rio Grande	do	109,043	109,043
11	Alameda	Bernalillo	106,244	106,244
12	José Duran	Santa Fe	426	.....
13	Socorro	Socorro	17,361	17,361
14	Fr. Montes Vigil	Rio Arriba	35,000	35,000
15	Antonio Sedillo	Bernalillo and Valencia	152,879	88,000
16	Gijosa	Taos	20 000	20,000
18	Pachecho	Santa Fe	500	500
21	Cristobal de la Serna	Taos	30,000	30,000
22	San Marcos	Santa Fe	1,890	1,890
26	Rancho de Galvan	Bernalillo	30,900	.....
27	San Antonito	do	32,000	.....
28	Nuestra Señora, etc	Rio Arriba	20,000	20,000
30	Piedra Lumbre	do	39,062	39,062
31	Luis Jaramillo	Bernalillo	18,000	18,000
35	Jacona	Santa Fe	46,241	36,241
39	Caja del Rio	do	70,000	60,000
49	Domingo Valdez	do	500	500
50	Zia, Santa Ana, and Jemez Pasture Grant	Bernalillo	382,849	.....
53	Canada de los Alamos	Santa Fe	13,706	9,500
57	Nicolas Duran de Chaves	Valencia	50,000	49,000
100	Canyon de San Diego	Bernalillo	10,000	.....
	Estimated total		1,558,875	815,839

	Acres.
Estimated total confirmed	739,595
Estimated total cut and rejected	819,280

AGRICULTURE.

The Hon. Edmund G. Ross, ex-governor of New Mexico, in referring to the agricultural future of New Mexico, said:

Contrary to the popular impression in the East a very large proportion of the lands of New Mexico are good agricultural lands, which will average well with those of any of the States east or west. A fair computation would put the mountainous portions at some 30,000,000 acres, the river valleys at 8,000,000, and the mesas at 40,000,000. On the mesas there are, of course, considerable areas that are impossible of cultivation, possibly 10,000,000 acres, while on the other hand there are in the mountainous districts many valleys and hill slopes at altitudes of 4,000 to 8,000 feet above sea level, comprising some millions of acres, which are susceptible of successful cultivation, especially of all the small grains, all the common classes of vegetables, and of the hardier fruits. These valleys abound in the vicinity of the mining camps, which must always constitute for them a profitable market, while those valleys in turn by their vegetable products will materially contribute to the successful prosecution of mining by cheapening the cost of living and thus the cost of mining. So that at least one-half the area of New Mexico is susceptible of a high state of cultivation and successful farming. The river valleys especially are rarely equaled anywhere in productive energy.

When viewed in the light of the fact that in large portions of the Territory these lands are interspersed with forests of timber, vast deposits of coal, and quarries of excellent building stone, mines of all the precious and valuable metals, and a climate unequaled in salubrity and healthfulness, it will be apparent that New Mexico possesses rare attractions for the ambitious, energetic, industrious farmer and homeseeker.

Serious attention is being given to the cultivation of new products specially adapted to our soil and climate, such as canaigre and sugar beets. The analyses of sugar beets by the United States Department of Agriculture show that New Mexico, and especially her two northern tiers of counties, is most favorably located for this culture. They show the highest general average of purity, percentage of solid matter and of sugar, of any State or Territory.

Canaigre is a tanning agent. It is a species of the sour dock, and the dried root contains about 33⅓ per cent of tannic acid, or a higher average than the very best oak bark. It grows wild on most New Mexican plains and measas, and in that state yields from 1 to 4 tons to the acre. In rare instances as high as 10 tons per acre have been gathered wild. Under very simple cultivation and scanty irrigation as high as 40 tons have been harvested, and it will average from 10 to 20 tons per acre.

The excellence of the cereal products of New Mexico is best shown by the result of the competition of the leading grain-producing countries of the world and the various States of the Union at the World's Fair. The committee of awards gave to New Mexico first premium for wheat and oats. A comparison of the committee's findings showed that out of the whole world, the rest of the United States included, New Mexico had the finest wheat, the grain weighing 66 pounds to the bushel, against the universal standard of 60 pounds. Then, we not only had finer oats than anywhere else in the United States, but we had the finest in the whole world, Russia only excepted. The standard weight of oats is 32 pounds to the bushel. The New Mexico grain weighed 46 pounds and the Russian 48.

IRRIGATION.

Much of New Mexico requires irrigation for successful agriculture. What is now being accomplished in this respect is well summarized in the last report of the governor:

In the matter of irrigation development the Pecos Valley enterprise boasts of the best and most extensive system of irrigation extant on this continent. Five years ago this great valley was a barren plain occupied by a half dozen cattle-raisers.

To-day it is one of the most promising farming regions in the West, with a population of over 17,000 souls and two flourishing towns. This has been accomplished in the face of the greatest difficulties. The capacity of the storage system projected and nearly completed, to save the flood and storm waters, aggregates over 15,000,000,000 cubic feet. The canals cover 500,000 acres, nearly all in New Mexico. The water supply is ample, as the tremendous spring flow from the snow-capped mountain ranges will more than fill the reservoirs. One thing notable is that the farmers only use an acre-foot of water per annum, or 42,260 cubic feet. This is about the lightest duty of water known on strictly farming lands. Sixty thousand acres of land have already been disposed of in this valley to bona fide farmers, and 20,000 are now actually under cultivation. To handle the product of this region the Pecos Valley Railroad has already been built from Pecos City, Tex., to Eddy, N. Mex., and all the preliminary work has been done to push it northeasterly to a junction with the Santa Fe system at some point between Las Vegas and Albuquerque.

In Grant County two important enterprises to save the underflow of the Mimbres River are well under way to water lands around Deming. Sufficient work has been done to prove that beneath the surface there is a continuous flow of water sufficiently large to irrigate many thousand acres of land, and this water can be brought to the surface and utilized at a very small cost.

In the south central portion of the Territory there is a large project to reclaim part of the Jornado del Muerto and the Armendaris land grants. The engineers and experts have reported favorably on the proposed improvement.

San Juan County keeps up her steady improvement. There are but few large irrigation enterprises in this county. The farmers themselves own nine-tenths of the canals. The absolute abundance of water here makes irrigation easy. This is the only part of the arid region where there is more water than land. The arable area is only about 450,000 acres, and there is water for a couple of million of acres.

The irrigation works on the Maxwell grant have progressed to completion. Colonization goes steadily on. Many families have been located on the irrigated lands during the past season. Altitude and latitude combine to render these lands the best known for sugar-beet culture.

A company has been organized known as the Valverde Land and Irrigation Company, for the purpose of reclaiming the Armendaris grants. It has acquired title to the Armendaris grants Nos. 33 and 34, containing 447,535 acres of pastoral and coal lands, situated upon either bank of the Rio Grande River. The company has recently completed a very thorough survey of this property to ascertain the area susceptible of irrigation and the cost of reclamation. It is proposed to reclaim this body of land by the natural flow of waters and without any storage whatever. It is also estimated that about 60,000 acres of the upper bench or mesa land may be reclaimed by the construction of reservoirs. These latter lands possess a light, sandy soil peculiarly adapted to the culture of fruit trees and of wine, table, and raisin grapes, such as are now being grown so successfully in the Mesilla Valley.

Another irrigating enterprise, undertaken within the year, is the reclamation of some 30,000 acres of land situated upon one of the Baca floats, and upon the Pablo Montoya grants, by utilizing the waters of the Canadian River, and a company is now being formed to originate a new irrigation scheme of large proportions from the waters of the Upper Pecos River, by placing them upon the Anton Chico, Antonio Ortiz, and Beck grants.

In Santa Fe County an important enterprise is under way. One reservoir has already been built to supply Santa Fe City with water for domestic purposes and to irrigate about 2,000 acres of garden and fruit land. In the Arroya Hondo, a natural storage basin, another is projected to cover 15,000 acres of splendid level mesa. The spring and storm flows will be saved, and the aggregate area reclaimed by this scheme will be over 100,000 acres. These lands will be principally devoted to garden and orchard purposes.

The splendid results achieved by the Pecos Valley Irrigation and Improvement Company, and the wonderful change produced by its labors, have given a new impetus to irrigation in New Mexico by practical illustrations of the feasibility of such works, the cheapness with which they can be built, and the short time required to change an arid desert into grain fields, bearing vineyards and orchards, as well as the profit to be realized by such investment. Of these lands many thousands of acres, which less than five years ago were purchased for $1.25 per acre, have sold during the past year and are now selling at $50 and $75 per acre.

The future prosperity of the Territory and its ability to support a dense population depends almost entirely upon the extent to which irrigation may be successfully carried on. The efforts of the past have shown the wonderful productiveness of the soil after reclamation, and present efforts are proving the large acreage susceptible of irrigation at a very small expenditure of capital.

CLIMATE AND HEALTH.

New Mexico has long been famous for the salubrity of its climate. Tubercular diseases are unknown; no case of consumption has ever originated in the Territory. Its advantages in this respect are well set forth in the following report of the American Health-Resort Association:

TORONTO, CANADA, *August 31, 1891.*

To the American Health-Resort Association:

I have the honor to report, as special commissioner appointed by your president, T. C. Duncan, M. D., to visit New Mexico and investigate its claims as a health resort for consumptives, that I went through the whole Territory from Raton to El Paso, and spent most of August in my investigations.

The country is divided by the Rocky Mountains almost in the center from north to south. On the west side of the mountains is the Rio Grande River and its many tributary streams that make the land broken and undulating, with wide valleys and plateaus. Between Santa Fe and Albuquerque the range is cut through by a tributary to the Rio Grande. This break in the mountain chain is a most important one in moderating the climate thereabout. The streams in the east half of the State trend to the southeast almost from the Raton Range on the north. This spur of the Rocky Mountains doubtless shunts the "northers" farther east. The country east of the main Rocky Mountain Range is more undulating and well adapted to grazing and will be beneficial to those cases of incipient consumption who can play the cowboy or farmer. Good farms can be had by irrigation, and this locality will be beneficial to many consumptive families.

Las Vegas.—The mountains seem broken into many spurs as we approach Las Vegas, which is a smart city of some 3,000 people, with fair accommodations. The hot springs are the great attraction. I tested them in every way possible. There are hot and cold springs and baths of all kinds. The bath attendants are experts, and I can report that this is a delightful place. The hotel affords the most elegant accommodations; cheaper places can be had near by. The air is very bracing. I met there consumptives who had hemorrhage in Boston and East; they were improving. I met others with special diseases, all doing well. For rheumatism, syphilis, and blood diseases it is an excellent place to go. I was surprised to see consumptives who had had hemorrhages there and improving. The altitude, over 7,000 feet, I should fear was too trying; still, if they do not exert themselves much, take the baths and drink the water, they will doubtless continue to improve. The rare air doubtless aids rapid healing of diseased surfaces. Some had been there before, went back East, were worse and returned to remain. Recovery the second time is not so rapid as at first, showing that going East was a mistake. This is a fact that people are slow to learn.

This mineral water should have a wide sale, for it certainly has merits. It has, as you see by the inclosed analysis, valuable medicinal ingredients, similar to the Carls bad that is imported and sold in great quantities in Europe and in the East; and besides it is a lithia water, therefore valuable in lithiasis—*e. g.*, gout, rheumatism, and various forms of dyspepsia. The mud certainly, as it shows much mineral, should be excellent for ulcers, sores, salt rheum, etc., and might be utilized by our surgeons. I recommend that it be procured and tested in the hospitals.

Santa Fe was my next stop. This is a quaint old town of some 7,000 people. One forgets himself among the many things of interest here, which fact alone would be helpful in many cases of consumption. It is situated in a valley opening and widening to the south, with mountains east and west and broken peaks to the south. It was not hot, and can not be very hot in summer nor very cold in winter. This location is well ventilated and at times may be too raw and severe for the very feeble. The altitude is 7,000 feet and the air very stimulating. The hotel accommodations are good and the people most hospitable.

I was royally entertained when my errand became known. It is the capital city, and the governor, judges, merchants, editors, and physicians vied with each other to show me all the special merits of the city and Territory as a health resort. The old Government military reservation, with fort and barracks in the center of the city, they hope to have set aside for a national sanitarium. It would make an excellent one. I was feasted with the finest fruits I ever tasted—apricots, peaches, apples, etc. There are some fine springs, and the Santa Fe River seems ample for irrigation as well as to supply the city.

Albuquerque was my next point. The country between this place and Santa Fe seemed to be favorable for invalids. The valley here is wide and well watered by the Rio Grande, which is a broad, shallow river, and the fall is ample for effective irrigation. On the river bottom are good crops and rank vegetation. The best

place for consumptives is here on the mesa. I met here many consumptives, some improving, some holding their own. Most of the people I met came for their health. The necessity for being active and out of doors to get the benefit of the climate was the testimony of nearly all of the physicians.

The Commercial Club entertained me, and I was driven out to the springs and to Camp Whitcomb over the mountains. Camp Whitcomb is a good place for resort during the very hot days of summer. The water mostly used is melted ice, manufactured in the city. This is an active, bustling place. It is 2,000 feet lower than Santa Fe, and hence warmer. The railroad divides here; one line goes to California and the other down the valley and on to Mexico. Invalids who must go on to California, I learned, stop here to advantage.

I recommend that consumptives sent here or to any other point should, as soon as possible, be distributed among cottages, with a nice plot of ground to occupy their time and attention.

Las Cruces was a place of which I expected much. I met Dr. Petin and was entertained by Prof. Hadley, president of the agricultural college which is located here, affording free tuition. We went over the Organ Mountain, where Dr. Petin had selected a place for a sanitarium, but before he could secure the land squatters had taken possession. It certainly was a nice, secluded, fertile valley, and its only drawback is that it is 25 miles from the railroad. This is a town of some 3,000 people, half of whom are Mexicans. I saw here large flocks of Angora goats, which are very profitable, I was told. The altitude is about 4,000 feet. The valley is wide here and very fertile when irrigated. Dr. Petin thinks that it will equal France as a grape country; it produces the finest grapes I ever saw. His opinion of it as a health resort is that it is the best in the world. The low altitude, the southern latitude, and the dry, warm winds coming from Mexico are its special features, adapting it to severe cases of consumption. As a winter resort it has special advantages for feeble invalids, but the accommodations are not very extensive. The water here is good.

San Marcial was my last stop on my return up the Rio Grande Valley. It is a small town and has an old, abandoned fort and military reservation that would make a good sanitarium, but I learned that a man had laid claim to it. This is also a good point for fruit and herds.

There are many other small towns in the Rio Grande Valley that I did not stop at, but all have the general merit of being warm and dry, which will commend them as good points for consumptive colonies.

I think that New Mexico surpasses any locality for consumptives I have yet visited, and I have been all over California, Colorado, and the South ,Sandwich Islands, and Europe.

I stopped off at Cimarron and Hutchinson, Kans. They are both in a comparatively dry section, and the lower altitude renders this a good intermediate point to get acclimated and to test the climate before going to higher altitudes. Therefore the merits of southwest Kansas, with its medium altitude, should not be overlooked by the profession.

In conclusion, I am decidedly of the opinion that the region visited is for consumptives superior to any other part of the United States or the world of which I have any practical knowledge.

J. F. DANTER, M. D.,
M. C. P. and S. Ont.

HISTORY OF EFFORTS FOR ADMISSION.

The people of New Mexico have made numerous efforts to be admitted into the Union as a State. Before the organization of the Territory, in June, 1850, a constitutional convention was held, a constitution was framed, submitted to a vote of the people, and adopted. At the same time a legislature and member of Congress and State officers were elected. The State officers qualified and the legislature met on the 1st day of July, 1850, and elected two United States Senators. The Senators and Representative in Congress proceeded to Washington, presented to Congress the constitution which had been adopted, and asked the admission of the Territory into the Union as a State, and their admission to seats in the Senate and House of Representatives. Pending their application for admission Congress passed the organic act of the Territory and admitted the member elect to Congress to a seat in the House of Representatives as a Delegate from the Territory of New

Mexico. Since the organization of New Mexico as a Territory twenty-seven legislative assemblies have convened at the capital of the Territory, and more than half of these have memorialized Congress for the passage of an act to enable the people of the Territory to form and adopt a State constitution and to be admitted into the Union.

In 1871 the legislative assembly of the Territory passed a law authorizing the assembling of a convention to frame a constitution. This convention convened at Santa Fe, framed a State constitution, and submitted it to a vote of the people, but it was rejected. The principal reason assigned for rejecting this constitution was that Congress had repeatedly refused to pass an act to enable the people of the Territory to frame a constitution and to be admitted into the Union. The impression seemed to prevail that Congress would not admit the Territory into the Union as a State unless an enabling act was passed by Congress for that purpose. At that election, while about 20,000 votes were cast for Delegate in Congress, less than 4,000 votes were cast for or against the constitution so submitted to the people.

During the Forty-third Congress a bill to provide an enabling act for the admission of New Mexico into the Union passed both Houses of Congress. It passed the House of Representatives at the first session May 21, 1874, by a vote of yeas 160, nays 54—a majority of nearly three-fourths. At the second session of that Congress, on the 24th day of February, the same bill passed the Senate by a vote of 32 yeas and 11 nays—a majority of nearly three-fourths. Some slight amendments were adopted to the bill in the Senate, upon which there seems to have been no vote in the House, and the bill failed. It was again introduced in the Forty-fourth Congress, and passed the Senate at the first session, on the 10th day of March, 1876, by a large majority. It was not acted on by the House during that Congress. Nor has either House passed a bill to enable New Mexico to form a constitution since that time. In the debate on the New Mexico enabling act in the Senate, in 1876, the following views on the subject were expressed by the Senators indicated:

Senator Hitchcock said:

Mr. President, a bill similar in its main provisions to the one now under consideration received a large majority of the votes of both Houses of Congress toward the close of the last session, and after full discussion. I presume, therefore, that this bill will not provoke any extended debate. The committee, therefore, believe that, independent of any treaty obligations to which the honorable Senator has alluded, and which were twenty-five years ago sufficiently important to induce some of the most prominent statesmen of this country to favor the admission of New Mexico then, New Mexico, from the number of her people and the extent and character of her territory, is justly entitled to become a member of this American nation.

Senator Maxey said:

In view of all these facts of the great resources of New Mexico, present and prospective; of the peaceful, law-abiding character of its citizens; of its possession of a population ample in number to conduct a State government; and of its probation under a Territorial government, I, as a member of the Committee on Territories, came to the conclusion, after investigation, that New Mexico had good reason for her prayer to be admitted as a State of the Union; and I believe the time has come when the United States can well be freed of the burden and heavy expense of a Territorial government over that people, and will be fully justified in admitting New Mexico as a State when it presents a constitution republican in form and consistent with the Constitution of the United States.

Senator Sargent said:

Now, it is cruel to a Territory with from 90,000 to 150,000 inhabitants to keep them in this state of tutelage that we call a Territorial government. I doubt if the ingenuity of mankind ever has devised a worse system of government than what we call our system, unless it is some form of tyranny. It is a careless and wasteful system. I have a list here of a dozen States which have been admitted, which are among the

most powerful and wealthy States now in the Union, which were all admitted with one-half the population which New Mexico has at the present time. It is impossible for a new State to have the population and wealth of an old one. The question is, does it furnish a fair guaranty for the future? That was the only fair question that could have been asked of Ohio when it came forward with 41,000 people; the only fair one of Illinois, when it came forward with 45,000 people [34,620].

DOES NEW MEXICO DESIRE ADMISSION?

In the year 1874 the legislative assembly of New Mexico adopted a memorial to Congress, praying for the passage of a law making provision for the immediate admission of the Territory as a State in the Union. That memorial is as follows:

Your memorialists, the council and house of representatives of the legislative assembly of the Territory of New Mexico, would most respectfully represent that the Territory of New Mexico at this time, we believe, has a population of 135,000, aside from the Pueblos or Village Indians, who, from time immemorial, have been agriculturists and among the best citizens of our Territory, and who now number a little short of 10,000, making a total population of 140,000, mostly a quiet, pastoral people, and as truly loyal to the Government under which they live as any people under the sun; that at the time of taking the last census there were in this Territory at least 10,000 people living in the many various mining districts, remote from the mass of settlements, and residing on the extreme borders of this Territory, who could not be reached by the census officers without great danger and risk, and were for that reason not included in the census; and that since said census was taken a very large immigration has come into this Territory from the States and European countries, amounting to at least 20,000, who have settled permanently in our Territory, bringing with them capital and means; that this new population is dispersed very generally throughout the Territory, but will be found mostly in the mining regions, which are fast becoming developed. We believe that, outside of the native Mexican population of the Territory, there are at least 40,000 people of American and European descent among us who are permanent residents.

Believing that they are fully equal to the requirements of such an organization, and finding also that more than one-half of all the States which have been admitted into the Union since the Government was organized have been so admitted upon a basis of population each of less than one-half of the population of New Mexico at the present time; that our increase in population in this Territory has been greater than in many of the old States, where circumstances have been favorable to increase, and our legislature of two years ago, with a proper appreciation of all these facts, having adopted the constitution with a view to a State organization, now, this legislature, being able to know and understand the wishes and views of the people on this subject, which has been so long and so fully discussed among them, speak for and in their behalf, and most respectfully urge that Congress make provision by law for the immediate admission of this Territory as a State into the United States, in such a manner as shall secure the result desired at as early a day as may be practicable, and your memorialists will ever pray.

This memorial was presented to Congress at the first session of the Forty-third Congress. The Committee on the Territories of the House of Representatives of that Congress unanimously reported a bill (H. R. 2418) to enable the people of New Mexico to form a constitution and State government and for admission of the said State into the Union on an equal footing with the original States. (See House Report No. 561, first session Forty-third Congress.) That bill passed both Houses during that Congress, as above stated.

At that time the population of New Mexico was but 110,000, two-thirds its present population, while the 1,500 miles of railroad now in existence in that Territory had not been built. The bill passed the House by almost three-fourths majority, 160 to 54. Three distinguished members of the present House voted for this bill at the time, Hon. A. C. Harmer, Hon. Charles O'Neill, and Hon. Roger Q. Mills. Both sides of the House united in this acknowledgment that New Mexico was then entitled to a place in the Union. The bill met a like reception in the Senate (see Congressional Record, Vol. 3, pp. 1691 to 1692) and

passed by a vote of 32 to 11. A number of the present leaders of the Senate were recorded in favor of this bill at that time either as Representatives or as Senators. These include Senators Allison, Dawes, Frye, Mitchell, Sawyer, and Stewart, while many distinguished political leaders no longer in Congress united in this act of justice to New Mexico. Among these were the late President Garfield, the late Secretary Windom, the Hon. Simon Cameron, the Hon. Hannibal Hamlin, the Hon. John A. Logan, the Hon. William R. Morrison, and the Hon. Charles Foster. Hon. S. B. Elkins was then Delegate from New Mexico, and introduced the bill and was its active promoter.

In the Forty-fourth Congress the Senate again passed a bill to admit New Mexico by a vote of 35 to 15. In addition to the members of the present Senate who voted for the same bill in a preceding Congress Senators Jones of Nevada, Paddock, Ransom, and Sherman all voted for it on this occasion. The House of Representatives failed to reach the bill, although it was on the Calendar, with a favorable report from the Committee on the Territories.

There was no party division. Both sides alike admitted that New Mexico was entitled to all the rights and privileges of a State. If this was so eighteen years ago there can be no reason why at the present time the bill to admit this Territory should not command the support not only of all those named who are still in Congress, but of all their party associates.

In the Fiftieth Congress the Committee on the Territories reported in favor of the admission of New Mexico with the two Dakotas, Montana, and Washington, but on account of the unexpected opposition displayed, growing out of imperfect information and the known danger that the retention of New Mexico in the bill would probably operate unfavorably upon the other States, the provision for her admision was stricken from the bill.

In the Fifty-first Congress the Territories of Idaho and Wyoming became States of the Union, but although the population of New Mexico exceeded both of these combined the Committee on the Territories failed to report the bill providing for her admission.

In the Fifty-second Congress bills for the admission of New Mexico, Utah, and Arizona passed the House almost by a unanimous vote, and although the bill for the admission of New Mexico was favorably reported by the Senate Committee on Territories, yet it failed to become a law for the want of time for its consideration in that Congress.

In order to test the sentiments of the people of New Mexico upon this important question of admission the governor of the Territory, by official proclamation, convened a statehood convention at the city of Albuquerque, N. Mex., on the 20th day of September, 1893. In response to this call more than 600 delegates, representing every political party in the Territory, as well as every county in New Mexico, assembled at said convention; and, after due organization, passed and adopted resolutions requesting the Congress of the United States to pass House bill 353, which is a bill to enable the people of New Mexico to form a constitution and State government and to be admitted into the Union on an equal footing with the orignal States; so that the present bill met with the unanimous approbation of that convention. This demonstrates the intense desire of the people of New Mexico for admission into the sisterhood of States.

Now for the seventh time New Mexico applies for admission. The census of 1890 gives the population of the Territory at 153,593. This is far above the number used as a basis for the Congressional appor-

tionment. It exceeds four other States now in the Union, Montana (132,159), Idaho (84,835), Wyoming (60,705), and Nevada (45,761), and is nearly equal to Delaware (168,493) and North Dakota (182,719).

Wisconsin, at the time of her admission into the Union, contained a population of 180,000. No other Territory at the time of admission into the Union contained so large a population as did Wisconsin at the time of her admission, and all of such Territories, with the exception of Wisconsin, contained less population than New Mexico. The following table shows the ratio of representation and the population at date of admission of all the States admitted into the Union:

State.	Date of admission.	Representative ratio on previous census.	Population by previous census.			Population when admitted.			Population by following census.	Rate per cent of increase during decade of admission.
			Free.	Slave.	Total.	Free.	Slave.	Total.		
Vermont	1791	33,000	85,425	.....	85,425	85,425	.....	85,425	154,446	80
Kentucky	1792	33,000	61,247	12,430	73,677	61,247	12,430	73,677	220,955	200
Tennessee	1796	33,000	32,274	3,417	35,691	*60 000	*7,000	*67,000	105,662	195
Ohio	1802	33,000	45,365	.....	45,365	45,365	.....	45,365	230,760	408
Louisiana	1812	35,000	41,896	34,660	76,550	41,896	34,660	76,556	152,923	100
Indiana	1816	35,000	24,520	.....	24,520	63,897	.....	63,897	147,178	500
Mississippi	1817	35,000	23,264	17,088	40,352	45,441	30,061	75,512	75,448	403
Alabama	1819	35,000							127,901	
Illinois	1818	35,000	12,282	.....	12,282	34,620	.....	34,620	55,162	350
Maine	1820	35,000	228,705	.....	228,705	298,269	.....	298,269	399,445	33
Missouri	1821	40,000	56,335	10,222	63,557	56,335	10,222	66,557	140,445	111
Arkansas	1836	47,700	25,812	4,576	30,388	*33,000	*9,240	52,240	97,574	221
Michigan	1837	47,700	31,639	.....	31,639	*65,000	.....	*65,000	212,267	570
Florida	1845	70,680	28,760	25,717	54,477	*34,000	*30,000	*64,000	87,445	60
Texas	1845	70,680	.....	.....	.....	*105,000	*38,000	*143,000	212,592	.....
Iowa	1846	70,680	43,112	.....	43,112	78,819	.....	78,819	192,214	345
Wisconsin	1848	70,680	30,945	.....	30,945	*180,090	.....	*180,000	305,391	886
California	1850	93,423	92,597	.....	92,597	92,597	.....	92,597	379,994	310
Minnesota	1858	93,423	6,077	.....	6,077	*120,000	.....	*120,000	172,023	2,730
Oregon	1859	93,423	13,294	.....	13,294	*50,000	.....	*50,000	52,465	294
Kansas	1861	127,381	107,206	.....	107,206	107,206	.....	107,206	364,399	240
West Virginia	1863	127,381	.....	.....	.....	.....	.....	*350,000	442,914	.....
Nevada	1864	127,381	6,857	.....	6,857	*40,000	.....	*40,000	42,491	520
Nebraska	1867	127,381	28,841	.....	28,841	*100,000	.....	*100,000	122,993	322
Colorado	1876	131,425	39,864	.....	39,864	*100,000	.....	*100,000	194,640	388

*Estimated.

It will be seen from the foregoing table that the populations of Maine and West Virginia were much larger than that of Wisconsin at the time of their admission, but these States were not Territories before admission, but were carved out of existing States. It will also be seen that the State of Illinois was admitted with 34,000 population, the State of Nevada with 40,000, and the States of Nebraska and Colorado with 100,000 each, and Kansas with 107,000.

The following historical extracts are appended herewith to show the efforts that New Mexico has made to secure her admission into the sisterhood of States prior to her admission as a Territory.

[Senate Ex. Doc. No. 74, Thirty-first Congress, first session.]

Message from the President of the United States, transmitting a copy of the constitution adopted by the inhabitants of New Mexico, together with a digest of the votes for and against it; also, a letter to the late President of the United States.

SEPTEMBER 9, 1850.—Read, and ordered to lie on the table.
SEPTEMBER 10, 1850.—Ordered to be printed.

To the Senate of the United States:

In compliance with the request of the honorable Manuel Alvarez, acting governor, etc., I have the honor to transmit to the Senate herewith a copy of the constitution

recently adopted by the inhabitants of New Mexico, together with a digest of the votes for and against it.

Congress having just passed a bill providing a Territorial government for New Mexico, I do not deem it advisable to submit any recommendation on the subject of a State government.

MILLARD FILLMORE.

WASHINGTON, *September 9, 1850.*

SANTA FE, *July 15, 1850.*

SIR: In compliance with the provisions of section 11 of the schedule to the constitution of the State of New Mexico, I enclose you a copy of said constitution and a digest of the votes given for and against it, with a request that you will lay them before Congress at your earliest convenience.

I am, with respect, your most obedient servant,

MANUEL ALVAREZ.

General Z. TAYLOR,
President of the United States.

Digest of the votes given for and against the constitution of the State of New Mexico.

	For the constitution.	Against the constitution.
In the county of Taos	1,839	35
In the county of Rio Arriba		
In the county of San Miguel	203	
In the county of Santa Anna	1,146	
In the county of Bernalillo	1,504	1
In the county of Valencia	2,008	1
In the county of Santa Fe	571	2
Total	6,771	39

I, Manuel Alvarez, acting governor of the State of New Mexico, do hereby certify that the above is a true copy of the votes given for and against the constitution.

Given under my hand and seal (there being no great seal for the State), this fifteenth day of July, A. D. eighteen hundred and fifty, in the city of Santa Fe. [L. S.]

MANUEL ALVAREZ.

By the governor:
LEWIS D. SHEETS, *Secretary of State.*

Constitution of the State of New Mexico.

PREAMBLE.

We, the people of New Mexico, in order to establish justice, promote the welfare, and secure the blessings of liberty to ourselves and our posterity, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe, and imploring his aid and direction in its accomplishment, do ordain and establish the following constitution or form of government, and do mutually agree with each other to form ourselves into a free and independent State, by the name of the State of New Mexico, with the following limits and boundaries, to wit, as follows:

BOUNDARIES.

Beginning at the dam in the Rio del Norte, which supplies with water the "*asequia,*" or irrigating canal of the town of El Paso del Norte, and running thence due east to the hundredth parallel west from Greenwich; thence due north on said parallel to a point where the same intersects the river Arkansas; thence up the middle of the channel of said river to its source; thence in a direct line to a point on the Rio

Colorado of California where the same is intersected by the one hundred and eleventh parallel of longitude west from Greenwich; thence due south on the said parallel of longitude to a point on the Rio Gila intersected by the same; thence up the middle of the main channel of the said river to the point which may be designated by the commissioners appointed to establish the line between the United States and the Republic of Mexico as the point where said river or one of its branches shall be intersected by the western line of New Mexico; thence southerly on the said line, as the same shall be established by the commissioners, to the angle formed by the States of Chihuahua, Sonora, and New Mexico, thence easterly on the line between the United States and the Republic of Mexico, as it shall be laid down by said commissioners, to a point where the same may intersect the Rio del Norte; thence down said river to the place of beginning.

ARTICLE 1.—*Declaration of rights.*

SECTION 1. All men being born equally free and independent, and having certain natural, inherent, and inalienable rights, amongst which are the enjoying and defending of life and liberty, the acquirement, possession, and protection of property, and the pursuit and attainment of happiness, therefore, no male person shall be held by law to serve any person as a servant, slave, or apprentice, after he arrives at the age of twenty-one years, nor female, in like manner, after she arrives at the age of eighteen years, unless they be bound by their own consent after they arrive at such age, or are bound by law for punishment of crime.

2. All power is inherent in the people; all free governments are founded in their authority; they have therefore an inalienable and indefensible right to institute government, to alter and reform, or to totally change the same, when their safety or happiness requires it.

3. All men have a natural and indefeasible right to worship God according to the dictates of their own consciences, which right shall never be infringed, and no preference shall ever be given by law to any religious society, mode of worship, or any control or interference with the rights of conscience be permitted.

4. No religious test shall ever be required as a qualification to any office of public trust in this State; nor shall the civil rights, privileges, or capacities of any citizen in any manner be diminished or enlarged on account of his religious opinions, except as is in this constitution hereinafter provided.

5. Every person may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

6. No law shall ever be passed to curtail or restrain the liberty of speech or the press.

7. The people shall be secure in their persons, houses, papers, and possessions from unreasonable searches and seizures; and no warrant shall issue without describing the place to be searched, or the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath or affirmation.

8. All elections shall be free and equal.

9. The right of trial by jury shall be inviolable, except that the legislature may authorize the trial of civil suits, when the matter in dispute does not exceed fifty dollars, by a jury of six persons.

10. In all criminal prosecutions the accused shall have the right to a speedy and public trial by an impartial jury, to be informed of the accusation against him, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence.

11. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by justice of the peace, or in the Army, or in the militia, when in actual service, or in time of war.

12. No person after acquittal shall be tried for the same offence; and all persons shall before conviction be bailable by sufficient securities, except for capital offences, when the proof is evident or the presumption great; and the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it.

13. Excessive bail shall not be required; excessive fines shall not be imposed, or cruel and unjust punishment inflicted.

14. The military shall be subordinate to the civil power. No standing army shall be kept up by the State in time of peace; and no soldier shall be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

15. No person in this State, except such as are employed in the Army or Navy of the United States, or militia in time of actual service, shall be subject to corporeal punishment under the military law.

16. Every citizen shall have the right to keep or bear arms in the lawful defence of himself or the State.

17. No conviction shall work corruption of blood or confiscation of estate.

18. No *ex post facto* law, retroactive law, or any law impairing the obligation of contracts, shall be made.

19. Emigration from this State shall never be prohibited; nor shall any citizen ever be exiled under any pretence whatever.

20. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment, or descent of property.

21. The people have the right freely to assemble together to counsel for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

22. No power of suspending laws shall be exercised except by the legislature or its authority.

23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

ARTICLE 2.—*Distribution of powers.*

SECTION 1. The powers of the government of the State of New Mexico shall be divided into three distinct departments, and each of them confided to separate bodies of magistracy, to wit: Those which are legislative, to one; those which are judicial, to another; and those which are executive, to another.

2. No person, or collection of persons, being of one of these departments, shall exercise any power properly belonging to either of the others, except in those instances hereinafter expressly directed or permitted.

ARTICLE 3.—*Legislative department.*

SECTION 1. The legislative powers of the State shall be vested in two distinct branches—one to be styled the senate, the other the house of representatives, and both together the legislature of the State of New Mexico. The style of all laws shall be, *Be it enacted by the legislature of the State of New Mexico.*

2. The members of the house of representatives shall be chosen by the qualified electors, and their term of office shall be two years from the day of their general election; and the session of the legislature shall be held annually, at such time as shall be prescribed by law.

3. No person shall be a representative unless he be a citizen of the United States, and one year previous to his election a citizen of this State, and six months of the county, city, or town for which he shall be chosen, and shall have attained the age of twenty-one years.

4. The number of senators shall not be less than one-third or more than one-half of the representative body.

5. The senators shall be chosen by the qualified electors for the term of four years, and shall be divided by lot into two classes, as nearly equal as may be. The seats of the senators of the first class shall be vacated at the expiration of the first two years, and of the second class at the expiration of four years, so that one-half shall be chosen biennially thereafter; and such mode of classifying new additional senators shall be observed as will, as nearly as possible, preserve an equality of number in each class.

6. All elections by the people shall be held at such time and places, and in such manner, in the several counties, cities, and towns as may be designated by law.

7. No person shall be a senator unless he be a citizen of the United States, and shall have been an inhabitant of this State two years next preceding his election, and the last year thereof a resident of the district for which he shall have been chosen, and shall have attained the age of twenty-five years.

8. Each house shall choose its own officers (except when the lieutenant-governor shall preside in the senate), and shall judge of the qualification and election of its own members; but contested elections shall be determined in such manner as shall be prescribed by law.

9. Two-thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house shall prescribe.

10. Each house may, with the consent of two-thirds of its members, for any good cause, expel and punish members for disorderly conduct; and each house may punish by imprisonment, during the session, any person not a member for disrespectful or disorderly conduct in its presence, or for obstructing any of its proceedings, and may publish the same, or any part thereof, with the consent of two-thirds of its members.

11. The yeas and nays of either house shall, at the desire of any four members present, be entered on the journal.

12. When a vacancy shall happen in either house, the governor, or the person exercising the power of governor, shall issue a writ of election to fill such vacancy.

13. The doors of each house shall be kept open, except on such occasions as in the opinion of the house may require secrecy.

14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which they may be sitting.

15. Bills may originate in either house, and may be amended, altered, or rejected by the other; and every bill, having passed both houses, shall be signed by the speaker and president of their respective houses.

16. Every bill shall be read on three different days in each house, unless, in case of urgency, three-fourths of the house in which such bill is pending shall deem it expedient to dispense with this rule.

17. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under this State which shall have been created, or the emoluments of which shall have been increased, during such time.

18. An accurate statement of the receipts and expenditures of the public money shall be attached to, and published with, the laws, at the rising of each session of the legislature.

19. The governor and all other civil officers under this State shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than removal from office, and disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment, and punishment, according to law.

20. No judge of any court of record in this State, secretary of state, attorney-general, clerk of any court of record, sheriffs, or collectors of public moneys, or persons holding any office under the United States, shall have a seat in any legislature of this State.

21. Every person who shall be chosen or appointed to any office of trust or profit shall, before entering on the duties thereof, take an oath to support the Constitution of the United States, the constitution of this State, and to faithfully discharge the duties of his office.

22. The legislature shall have full power to exclude from the privilege of electing, or of being elected, any person convicted of bribery, perjury, or other infamous crime.

23. In the year one thousand eight hundred and fifty-one, and every tenth year thereafter, an enumeration of all the inhabitants of this State shall be made, in such manner as prescribed by law.

24. The house of representatives shall have the sole power of impeaching; but a majority of the members elected must concur in an impeachment.

25. All impeachments shall be tried by the senate; and, when sitting for that purpose, the senators shall be upon oath or affirmation to do justice, according to law.

26. No officer shall exercise his office, after he shall have been impeached, until after his acquittal. And the impeachment of such officer shall not be carried to conviction without the consent of two-thirds of the senators.

ARTICLE 4.—*Of the Executive.*

SECTION 1. The executive power shall be vested in a governor, who shall hold his office for four years, and a lieutenant-governor, who shall be elected at the same time and for the same term.

2. No person who is not a citizen of the United States, and a qualified elector, and who shall not have resided in the State for three years next preceding his election, shall be eligible to the office of governor or lieutenant-governor.

3. The governor and lieutenant-governor shall be elected by the qualified electors of the State at the time and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant-governor shall be elected; but in case two or more shall have an equal and the highest number of votes for governor or lieutenant-governor, the two houses of the legislature, at its next annual session, shall forthwith, by joint ballot, choose one of the persons so having an equal and the highest number of votes for governor or lieutenant-governor. The returns of election for governor shall be made as provided by law.

4. The governor shall be commander-in-chief of the military forces of the State. He shall have power to convene the legislature on extraordinary occasions, and, in case of invasion or danger from the prevalence of contagious disease at the seat of government, he may convene them at any other suitable place within the State. He shall communicate to the legislature, at every session, the condition of the State, and recommend such matters to them for their consideration as he may deem expedient. He shall transact all necessary business with the officers, civil and mili-

tary, of the government. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed.

5. When any office shall from any cause become vacant, and no mode is provided by the constitution for filling such vacancy, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislature, or at the next election by the people.

6. In case of disagreement between the two houses of the legislature as to the time of adjournment, the governor shall have power to adjourn the legislature to such time as he may think proper, provided it be not beyond the time fixed by law for the meeting of the next legislature.

7. No person shall, while holding any other office under the United States, or under this State, execute the office of governor, except as hereinafter expressly provided.

8. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the time for which he shall have been elected; and the salary of the governor shall never be less than two thousand five hundred dollars per annum.

9. The lieutenant-governor shall, by virtue of his office, be president of the senate, and have a right, when in committee of the whole, to debate and vote on all subjects, and, whenever the senate are equally divided, to give the casting vote. And in case of the death, resignation, removal from office, inability or refusal of the governor to serve, or of his impeachment or absence from the State the lieutenant-governor shall exercise the powers and authority appertaining to the governor until another be chosen at the regular election for governor and be duly qualified, or until the governor impeached, absent, or disabled shall be acquitted, return, or his disability be removed.

10. Whenever the government shall be administered by the lieutenant-governor, or he shall be unable to attend as president of the senate, the senate shall elect one of its own members as president for the time being; and if, during the vacancy of the office of governor, the lieutenant-governor shall die, resign, refuse to serve, or be removed from office, or be unable to serve, or if he shall be impeached or be absent from the State the president *for the time being* of the senate shall in like manner administer the government until he shall be superseded by a governor or lieutenant-governor.

11. The lieutenant-governor shall, while he acts as president of the senate, receive for his services double the compensation which shall be allowed to the speaker of the house of representatives, and no more.

12. The lieutenant-governor, or president *for the time being* of the senate, shall, during the time he administers the government as governor, receive the same compensation which the governor would have received had he been employed in the duties of his office, and no more. If the lieutenant-governor shall be administering the government and shall, while in such administration, die, resign, or be absent from the State during the recess of the legislature it shall be the duty of the secretary of state to convene the senate for the purpose of choosing a president *for the time being*.

13. There shall be a seal of the State, which shall be kept by the governor and used by him officially.

14. All commissions shall be in the name and by the authority of the State of New Mexico, be sealed with the State seal, signed by the governor, and attested by the secretary of state.

15. There shall be a secretary of state, who shall be nominated by the governor, and appointed by and with the advice and consent of the legislature in joint ballot, and shall continue in office during the term of service of the governor elect. He shall keep a fair register of all official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto before the legislature, or either house thereof, and shall perform such other duties as may be required of him by law.

16. Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, three-fifths of the members elected shall agree to pass the bill it shall be sent, with the objections, to the other house, by which house it shall likewise be reconsidered. If passed by three-fifths of the members elected of that house it shall become a law; but in such cases the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house, respectively. If any bill shall not be returned by the governor within four days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by its adjournment before the expiration of the

aforesaid four days, shall render a return within that time impracticable, in which case, if not returned within two days after the next meeting of the legislature, after the expiration of the said four days it shall be a law.

17. Every order, resolution, or vote, to which the concurrence of both houses of the legislature may be necessary, except on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him, or, being disapproved, shall be repassed by the two houses, according to the rules and limitations prescribed in case of a bill.

18. The governor shall have power to remit fines and forfeitures, and, by and with the consent of the judges of the supreme court, or a majority thereof, to grant reprieves and pardons in all cases except cases of impeachment.

19. He may require information in writing from the officers of the executive departments relative to the duties of their respective offices.

20. A state treasurer and a comptroller of public accounts shall be appointed by the governor, with the consent of both houses of the legislature, for the period of four years, but in case of vacancy in either of said offices during the recess of the legislature such vacancy shall be filled by the governor, which appointment shall continue until action thereon is had by the next legislature.

21. No person shall be eligible to the office of governor or lieutenant-governor for more than two terms out of three.

ARTICLE 5.—*Judicial department.*

SECTION 1. The judicial power as to all matters of law and equity shall be vested in one supreme court and in such other inferior courts as the legislature may from time to time establish.

2. The supreme court shall consist of a chief justice and three associate justices.

3. The supreme court shall have appellate jurisdiction only, and in no case shall a trial by jury be allowed in this court. It shall have a general superintending control over all inferior courts. It shall have power to issue writs of *habeas corpus, mandamus, quo warranto, certiorari*, and other original and remedial writs, and to hear and determine the same.

4. The State shall be divided into three circuits until the first general enumeration of all its inhabitants shall have been made, or the legislature shall otherwise direct, as follows: The counties of Bernalillo and Valencia shall compose the southern circuit; the counties of Santa Anna, Santa Fé, and San Miguel the central circuit, and the counties of Taos and Rio Arriba the northern circuit. In each county of each circuit a circuit court shall be held not less than three times in each year. In each circuit one of the associate justices of the supreme court shall be the judge thereof.

5. After the first enumeration of all the inhabitants of this State in the year 1851, in such manner as shall be prescribed by law, the legislature shall divide the State into four circuits, in each of which one of the four judges of the supreme court shall be appointed to hold circuit court not less than four times in each year in each county.

6. The jurisdiction of said circuit courts shall be prescribed by law, and the times and places of holding the same.

7. No judge of the supreme court shall sit as a judge of the same upon the hearing and determination of any cause on which he, as a circuit judge, has sat on its final determination.

8. The judges of the supreme court may be removed from office, for any cause which is not sufficient ground for impeachment, on the address of two-thirds of the members of both houses.

9. The judges of the supreme court shall be appointed by the governor, by and with the consent of both houses of the legislature in joint ballot, and shall hold their offices for the terms of six years, and until their successors be duly nominated and qualified.

10. On the trial of any cause brought up by appeal from a circuit court three of the judges of the supreme court, neither of whom shall have sat as judge on the final determination of the case in the circuit court, shall constitute a quorum; and in all other cases three judges of the supreme court shall be necessary for a quorum.

11. The judges of the supreme court, or a majority of them, shall appoint the clerks of the supreme court. The judges of the circuit courts shall, respectively, appoint their own clerks.

12. All processes, writs, and proceedings shall be carried on by the "name and authority of the State of New Mexico," and shall conclude in the words "against the peace and dignity of the same."

13. A competent number of justices of the peace shall be elected by the people in each county, in such manner as the legislature may direct, whose term of office, powers, and duties, shall be regulated and defined by law.

14. All judicial officers, whether elected or appointed, shall be commissioned by the governor.

15. Prosecuting attorneys for the State in the several circuit courts shall be elected by both houses of the legislature in joint ballot, and commissioned by the governor.

16. An attorney-general shall be appointed by both houses of the legislature in joint ballot, and commissioned by the governor. His duties and term of office as attorney-general and prosecuting attorney shall be regulated by law.

17. The judges of the supreme court, by virtue of their offices, shall be conservators of the peace throughout the State.

18. The times and places of holding the supreme court shall be regulated and defined by law.

19. The legislature shall pass laws for the establishment and regulation of tribunals of conciliation, defining their powers and duties. Such tribunals shall have power to render judgment, to be obligatory on the parties, when they shall voluntarily submit their matter in difference to arbitration and agree to abide the judgment or assent thereto in writing.

20. The legislature shall provide by law for the speedy publication of all statute laws and judicial decisions made within the State, as may be deemed expedient.

21. Sheriffs and constables shall be elected by the qualified electors of each of the counties, whose term of office and duties shall be regulated and defined by law.

ARTICLE 6.—*Militia.*

SECTION 1. The militia of this State shall be composed of able-bodied male citizens between the ages of eighteen and fifty years, except such as may hereafter be exempted by the laws of the United States or of this State, and shall be armed, equipped and trained as the legislature may provide by law.

2. No person or persons conscientiously scrupulous of bearing arms shall be compelled to do militia duty in time of peace; provided such person or persons shall pay an equivalent for such exemption, in the same manner as other citizens. All commissioned officers, staff officers excepted, shall be elected by the persons liable to perform military duty, and shall be commissioned by the governor. No minister of the gospel or priest of any denomination whatever shall be required to perform military duty, work on roads, or serve on juries.

3. The governor shall have power to call out the militia to execute the laws of the State, to repress insurrection, and to repel invasions.

ARTICLE 7.—*Education.*

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provisions for the support and maintenance of public schools.

2. The legislature shall, at as early a day as practicable, establish free schools throughout the State, and shall furnish means for their support by taxation; and it shall be the duty of the legislature to set apart not less than one-twelfth of the annual revenue of the State derived from taxation as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall be made diverting said fund to any other use.

The supervision of public instruction shall be vested in a State superintendent, and such other officers as the legislature may direct, the powers and duties of which officers shall be prescribed by law. The secretary of State shall, by virtue of his office, be the State superintendent, for which he shall receive no extra compensation under any pretence whatever.

ARTICLE 8.—*Suffrage.*

SECTION 1. Every male person of the age of twenty-one years or upwards (Africans or the descendants of Africans and uncivilized Indians excepted), belonging to either of the following classes, and who shall have resided in this State six months next preceding any election, shall be a qualified elector at such election.

First. Citizens of the United States residing in this State.

Second. Persons who elected to remain citizens, of the Republic of Mexico, according to article eight of the treaty of peace made and concluded between the United States of North America and the Republic of Mexico at Guadulupe Hidalgo, and ratified by the Congress of the United States the thirtieth day of May, A. D. 1848, and who shall have taken, at least six months preceding any election, before some judge of the supreme court in this State, or before a clerk of any court of record in this

State, an oath renouncing and abjuring all allegiance or fealty to the Government of the Republic of Mexico, and to support the Constitution of the United States and of this State.

Third. Persons of foreign birth not referred to in the two preceding clauses who shall have declared their intention to become citizens of the United States conformably to the laws of the United States on the subject of naturalization.

2. No soldier in the Army of the United States shall be entitled to vote in this State.

ARTICLE 9.—*General provisions.*

SECTION 1. Members of the legislature, and all other officers, before they enter on the duties of their offices, shall take an oath to support the Constitution of the United States and of this State, and faithfully and impartially to discharge and perform all the duties incumbent upon them as such officers, according to the best of their ability and judgment.

2. Treason against the State shall consist only in levying war against it, or in adhering to its enemies—giving them aid and comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

3. The following officers shall never be allowed less than the following salaries per annum for their services: The governor, two thousand five hundred dollars; the secretary of state, twelve hundred dollars; treasurer, six hundred dollars; comptroller of public accounts, six hundred dollars; attorney-general, six hundred dollars, and such fees as may be allowed by law; chief justice, eighteen hundred dollars; associate justices, fifteen hundred dollars each; and the legislature shall provide by law for the compensation of all officers, servants, agents, and public contractors not provided for by this constitution.

The members of both houses shall receive three dollars for each day's attendance during any session of the legislature, and ten cents for each mile, coming and returning, from the seat of government. The speaker of the house of representatives shall receive four dollars per day, and the president of the senate eight dollars per day.

4. All civil officers shall reside within the State, and all district or county officers within their district or county, and shall keep their offices at such places therein as may be required by law.

5. Absence on the business of the State, or of the United States, shall not forfeit a residence once obtained so as to deprive anyone of the right of suffrage or of being elected or appointed to any office, under the exceptions contained in this constitution.

6. Within five years after the adoption of this constitution the laws, civil and criminal, shall be revised, digested, arranged, and published in such manner as the legislature shall direct; and a like revision, digest, and publication shall be made every five years thereafter.

7. All revenue shall be raised by taxation, to be fixed by law. No other or greater amount of revenue shall at any time be levied than is required for the necessary expenses of the government unless by a concurrence of two-thirds of both houses of the legislature.

8. The legislature shall have power to lay an income tax, to tax all persons pursuing any trade, occupation, or profession; provided that the term occupation shall not be construed to apply to pursuits either agricultural or mechanical. Corporations shall not be created in this State by special laws except for municipal purposes; but the legislature may provide by general laws for the organization of all other corporations, as hereinafter provided.

9. The legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking privilege or power, or any institution or corporation having any banking privilege or power whatever, except as provided in the section following.

10. The legislature may submit to the voters of any general election the question of bank or no bank, and if, at any such election, a number of votes equal to a majority of all the votes cast at such an election on that question shall be in favor of banks, then the legislature shall have power to pass a general banking law, with such restrictions, and under such regulations, as they may deem expedient for the bill holders.

11. The credit of the State shall never be loaned for the benefit of any individual corporation, or association.

12. No divorce from the bonds of matrimony shall ever be granted, except by special act of the legislature.

13. The legislature shall at the first session thereof, and may at any subsequent session, establish new counties, for the convenience of the inhabitants of such new county or counties, or district.

14. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

15. The governor, secretary of State, attorney-general, and comptroller of public accounts shall keep their offices at the seat of government.

16. After the year one thousand eight hundred and sixty-two, whenever two-thirds of the members elected to the legislature shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members of the legislature, to vote for or against a convention; and if it shall appear that a majority of the citizens of the State voting for representatives have voted for a convention, the legislature shall, at its next session, call a convention, to consist of as many members as there may be in the legislature, to be chosen in the same manner, at the same places, and by the same electors that chose the legislature, who shall meet, within two months after the said election, for the purpose of revising, amending, or changing the constitution.

17. Until a census of the people of this State shall have been taken, or until the legislature shall otherwise direct, and the divisions shall be otherwise arranged by law, there shall be the following representation in the legislature of this State: To the house of representatives, from the county of Malencia, there shall be five members; from the county of Bernalillo, two members; from the county of Santa Anna, two members; from the county of Santa Fe, three members; from the county of San Miguel del Bado, three members; from the county of Rio Arriba, three members; from the county of Taos, three members. In the Senate, from the southern district, composed of the counties of Valencia and Bernalillo, there shall be two members; from the central district, composed of the counties of San Miguel del Bado, Santa Fe, and Santa Anna, there shall be three members; from the northern district, composed of the counties of Taos and Rio Arriba, there shall be two members.

18. The members of either of the two houses of the legislature shall be free from arrest, except for breach of the peace or felony, during the time the same shall be in session, and during the ten days next preceding and after such session.

19. In the first election to fill offices under this constitution, any person who is a citizen of the United States, or any person who is qualified to vote under the same, shall be eligible to such offices, anything in this constitution to the contrary notwithstanding.

20. The seat of government for this State shall be at Santa Fe, until it shall be permanently located by the legislature.

21. The legislature shall declare by law what parts of the common and what parts of the civil law, not inconsistent with the constitution, shall be in force in this State.

22. It shall be the duty of the legislature to provide for the organization of cities and corporated villages, and to limit the power of taxation, assessment, borrowing money, and contracting debts, by such municipal corporations.

SCHEDULE.

SECTION 1. That no inconvenience may arise in the change from a territorial to a State government, it is declared that all writs, actions, prosecutions, contracts, claims, and rights shall continue as if no change had taken place in the government; and all processes which may, before the organization of the judicial department under this constitution, be issued under the Territory of New Mexico, shall be valid as if issued in the name of the State.

2. All fines, penalties, and forfeitures accruing to the Territory of New Mexico shall accrue to the use of the State.

3. Recognizances heretofore taken, or which may hereafter be taken, and before the organization of the judicial department under this constitution, shall remain valid, and shall pass to and be prosecuted in the name of the State; and all bonds executed to the Territory, or to any officer in his official capacity, shall be passed over to the governor, or the proper State officer, or to their successors in office, for the uses therein respectively expressed, and be sued for and recovered accordingly. All estates or property, real, personal, or mixed; all judgments, bonds, specialties, choses in action, and debts or claims of whatsoever description, of the Territory of New Mexico, shall accrue to and be vested in the State of New Mexico, and may be sued for and recovered in the same manner and to the same extent, by the State of New Mexico, as the same could have been done by the Territory of New Mexico.

4. All criminal prosecutions and penal action which may have arisen, or which may arise, before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State.

5. All offences committed against the laws of the Territory of New Mexico, before the change from a Territorial to a State government, and which shall not have been prosecuted before such change, may be prosecuted in the name of the State of New

Mexico, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this constitution had not been adopted.

6. All laws heretofore in force in the Territory of New Mexico shall be and remain in force until otherwise provided by law. All actions at law and suits in equity, which may be pending in any of the courts in the Territory of New Mexico at the time of a change from a Territorial to a State government may be continued and transferred to any court of the State which shall have jurisdiction of the subject-matter thereof.

7. All civil officers now holding their office under the United States or the Territory of New Mexico shall continue to hold and exercise their respective offices until they shall be superseded under this constitution of the State of New Mexico.

8. The governor of the State shall make use of his private seal until a State seal shall be provided.

9. The first session of the legislature of the State of New Mexico shall be held at the city of Santa Fe, and shall commence on the first day of July, 1850.

10. The military and civil governor of the Territory shall be requested, immediately on the adjourment of this convention, to issue writs of election to the prefects of the several counties, requiring them to cause an election to be held on the twentieth day of June, 1850, the electors to vote for or against this constitution, for a governor and lieutenant-governor, a Representative in the Congress of the United States, senators and representatives to the legislature; and the returns of such election shall be made to the prefects, who, together with the prefects' clerks, shall count the votes given; and certificates of election shall be given by them to such persons as shall have received the highest number of votes for members of the legislature. The prefects of the several counties shall forward correct returns, under their hands, of all the votes given in their respective counties for governor and lieutenant-governor and Representative to Congress, and votes for and against this constitution, to the present secretary of the Territory, at Santa Fe, who, when the legislature shall convene, shall lay such returns before them, on the first day of their session, so soon as both houses shall be organized; and the speaker of the house of representatives and the president *pro tempore* of the senate shall, in the presence of both houses, examine the returns, and declare who are elected to fill those offices, and the votes for and against this constitution. If any two or more persons shall have an equal and higher number of votes than any other person or persons the legislature shall determine the election in the manner hereinbefore provided.

11. The returns of the electors for or against this constitution shall be certified to by the governor elect, or the lieutenant-governor acting as such, who shall dispatch the same to the Secretary of State of the United States within thirty days from the day of election. In all other respects the election shall be conducted according to the existing laws of this Territory.

12. It shall be, and is hereby, made the duty of the governor or lieutenant-governor acting as such, if it appears from the return of the votes for and against this constitution that it has been adopted by the people, immediately to cause a fair copy of the same, together with a fair digest of the votes given for and against the constitution, to be forwarded to the President of the United States, to be laid before the Congress of the United States.

13. The oaths of office hereinbefore directed to be taken may be administered by any judge or any alcalde until the legislature shall otherwise direct.

Done by the delegates of the people of New Mexico, in convention assembled at Santa Fe, this 25th day of May, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fourth.

JAMES H. QUINN, *President.*

JOSE MARIA MARTINEZ.	LEVI J. KEITHLY.
GEORGE GOLD.	JOSE MANUEL GALLEGOS.
JOSE ANTONIO MANSANARES.	JUAN PEREA.
JOSE PABLO GALLEGOS.	MURRAY F. TULEY.
THOMAS S. J. JOHNSON.	CHARLES OVERMAN.
CERAN ST. VRAIN.	ANTONIO JOSE OTERO.
FRANCISCO ORTIZ Y DELGADO.	JOSE ANTONIO BACA Y PINO.
JOAB HOUGHTON.	RAMON LUNA.

ROBERT CARY Y DONACIANO VIGIL, *Secretaries.*

I, Manuel Alvarez, acting governor of the State of New Mexico, do hereby certify that the annexed is a true copy of the constitution of the State of New Mexico.

Given under my hand and seal (there being no great seal for the State), this fifteenth day of July, A. D. eighteen hundred and fifty, at Santa Fe.

[L. S.] MANUEL ALVAREZ.

By the governor:

LEWIS D. SHEETZ,
Secretary of State.

To the people of New Mexico:

We, the delegates of the people of New Mexico, in convention assembled, have now the honor to submit for the consideration of the people that constitution which appears to us best for the moral, social, and political welfare and well-being of the country.

The friends of New Mexico have long desired and ardently sought a stable, uniform, equal, and just system of laws and administration of justice; and the means we have taken to effect these objects are, in our opinion, the most judicious that the present condition and circumstances of the country admits of adopting.

Slavery in New Mexico is naturally impracticable, and can never in reality exist here; wherever it has existed it has proved a curse and a blight to the State upon which it has been inflicted—a moral, social, and political evil. The only manner in which this question now affects us is politically; and on grounds of this character, with its general evil tendencies, we have unanimously agreed to reject it—if forever.

In all our councils, on this and every other subject, we have steadily endeavored to keep in view the real interests of New Mexico, in which are deeply involved our present sovereign and independent existence as a State, our future prosperity, and public and domestic felicity. These high considerations, profoundly impressed on our minds, induced each member of the convention to be less adhesive to his own views of minor points than might have been otherwise anticipated; and hence this constitution is the offspring of a cordial amity, and of that mutual deference and happy spirit of concession which the peculiarities of our situation rendered indispensable.

That it will meet the full approbation of every citizen is scarcely to be looked for; but that it is liable to as few objections as could reasonably have been expected, we hope and believe. That it may prove a lasting benefit to the people, and secure their freedom and tranquillity, is our most ardent prayer.

JAMES H. QUINN, *President.*

FRANCISCO ORTIZ Y DELGADO.
T. S. J. JOHNSON.
JOSE MANUEL GALLEGOS.
CERAN ST. VRAIN.
JOSE MARIA MARTINEZ.
JOSE ANTONIO MANSANARES.
LEVI J. KEITHLY.
JOSE ANTONIO BACA Y PINO.
MURRAY F. TULEY.
JOAB HOUGHTON.
CHARLES OVERMAN.
ANTONIO JOSE OTERO.
GEORGE GOLD.
JOSE PABLO GALLEGOS.
JUAN PEREA.
RAMON LUNA.

ROBERT CARY Y DONACIANO VIGIL, *Secretaries.*

[Senate Ex. Doc. No. 76, Thirty-first Congress, first session.]

Communication of R. H. Weightman, and accompanying memorial of the legislature of New Mexico, setting forth sundry grievances, and calling upon Congress for their correction.

SEPTEMBER 12, 1850.—Ordered to lie on the table.

SEPTEMBER 17, 1850.—Ordered to be printed.

WASHINGTON CITY, *September 11, 1850.*

SIR: By the resolution of the legislature of New Mexico, herewith inclosed, the senators and representatives are instructed to lay before Congress the accompanying memorial of that body, and to use every exertion to correct the abuses of every class mentioned therein.

Anterior to the admission of New Mexico as a State of the Union, having been chosen by its legislature a senator, as is shown by the accompanying certificate, I find myself in the position of an agent or representative of a community which seeks to be placed on a footing of equality, as regards political rights, with other communities of similar numerical and territorial importance.

In my character, then, as agent or representative of a community resident within the limits of the United States, and exceeding in number 80,000 souls, I trust I commit no impropriety in submitting through you, sir, to the Senate, views which obtain in the community which has honored me with its confidence, trusting and believing that though they may not command the assent, they will meet the calm consideration of the honorable body over which you preside.

The admission of New Mexico as a State of the Union is the only measure which will correct all the abuses mentioned in the memorial I have the honor to submit.

In no other form of government do the people have the right of representation in the national legislature, a right which in the year 1776 was deemed "inestimable to them and formidable to tyrants only."

In no other form of government are the officers responsible to the people.

Under a liberal Territorial form of government, for instance, though many of the abuses mentioned in the memorial might doubtless be corrected, still the governor, secretary, judges, etc., would be altogether irresponsible to the people, who would also be deprived of the inestimable right of representation.

The denial of these rights to the people will be found mentioned in the list of grievances which induced the Representatives of the United States of America in general Congress assembled, appealing to the Supreme Judge of the World for the rectitude of their intentions, to declare the United Colonies absolved from all allegiance to the British Crown, and to speak of the English King in these words: "A Prince whose character is thus marked by every act which may define a tyrant is unfit to be the ruler of a free people."

Though the people of New Mexico, in presenting their constitution, approached Congress by memorial, it is not to be taken for granted that Congress is at liberty to decline granting the prayer of the petitioners.

The words of the Constitution, section 3, article 4, "New States may be admitted by the Congress into this Union," merely designate the branch of the Government upon which is conferred the power of admitting new States.

A community containing of inhabitants a near approximation to the ratio of representation, presenting a republican constitution, is entitled, as a matter of right, to admission into the Union; and inquiry by Congress into these two facts would seem to be the limit of the discretion conferred upon it.

In stating this general proposition, I beg leave to be understood as making a distinction between the right and the power. To illustrate: Under the second clause, section 3, article 4, which gives Congress the power to make all needful rules and regulations respecting the Territories, etc., Congress might exercise the *power* to give a community of 100,000 souls a military government, combining all the abuses so emphatically condemned in the Declaration of Independence, but doubtless Congress would not have the *right* to do this.

Again, two communities, equal in numerical and territorial importance, apply for admission under similar constitutions. Congress has *power* to admit the one and refuse the other, but clearly not the *right*, for to do so would be tyranny, and tyranny Congress surely can not commit, as it lives and moves and has its being under a Constitution which was established by the people of the United States "in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and posterity."

There is a limit, then, to the discretion which Congress may rightfully exercise in regard to the admission of new States, which, being looked for in the Constitution, is found in clause 3, sec. 2, art. 1, regulating the apportionment of representatives among the several States according to their respective numbers; and in sec. 4, art. 4, which guarantees to every State a republican form of government. Any other exercise of discretion by Congress is not founded on law, and is, therefore, the essence of tyranny.

These views are only applicable to cases of application by communities within the territorial limits of the United States—to the admission of foreign communities, as in the case of Texas, they have no applicability. In the one class of cases Congress confirms a right, in the other confers a boon.

New Mexico, a community important in numbers and territorial extent, whose inhabitants are, with the exception of an inconsiderable number, citizens of the United States, principally adopted citizens, whose right to enjoy the blessings of liberty under a republican constitution is not the less perfect on that account—a community who, knowing their rights, and awaiting justice from the Congress, have submitted to oppressions from which native citizens would promptly and forcibly have relieved themselves, in order that no man might suspect their fealty to the United States—New Mexico comes forward and asks to be admitted into the Union under a republican constitution, which has been ratified by the almost unanimous vote of her people.

The native sons of the United States living in New Mexico knew their right to equality of privileges. They told their adopted fellow-citizens that, though acquired by purchase, and not of American blood, they might confidently expect from Congress equal, not diminished, rights; that the colonial system was repugnant to the Constitution and laws and people of the United States; that sympathy and kindly hands would be extended to them, and they were believed.

The question of the capacity of the people of New Mexico for self-government, the undersigned, as their representative, does not think it necessary to discuss, as the doctrine of the incapacity of the people is not of republican origin, and finds

advocates only among the supporters of monarchical governments and the divine right.

I inclose the memorial of the convention which formed the constitution recently transmitted to Congress by the president. It is important as showing the unanimity of the people in their opinions regarding the melancholy state of the country in reference to Indian murders and depredations and the inadequateness of the government under which the people for the past four years have suffered; for, of the two parties which have divided New Mexico, the one had a majority in the convention and the other in the legislature, and the two memorials taken together may be considered as the exponent of feeling and opinion of the entire people of New Mexico.

As the inaugural address and message to the legislature of Governor Alvarez threw light upon New Mexican affairs, I inclose them for the information of the Senate.

With much respect, I have the honor to be, sir, your very ob't servant,

R. H. WEIGHTMAN.

To the VICE-PRESIDENT OF THE UNITED STATES
AND PRESIDENT OF THE SENATE.

Memorial of the legislature of New Mexico to the Congress of the United States of America.

The legislature of New Mexico to the Congress of the United States respectfully represents: That by the treaty of Gaudalupe Hidalgo the faith of the United States was pledged to protect the inhabitants of New Mexico in their lives, their liberties, their property, and the free exercise of their religion without restriction.

That, upon the expiration of the year mentioned in that treaty, the inhabitants of New Mexico were invested with the rights of citizens of the United States, and became entitled to all the privileges as such guaranteed by the Constitution.

That, owing to disturbing causes which have embarrassed the action of the Congress, the inhabitants of New Mexico have neither been protected in their lives, their liberties, their property, nor in the free exercise of their religion without restriction, nor have they been in the enjoyment of any political privileges whatsoever.

Hostile Indians penetrate the country in every direction, and rob and kill and carry into captivity.

We are despoiled of our flocks and heards, our men are murdered, our children carried into captivity, and our wives and daughters violated.

Comanche Indians have, within a few days, approached within a few miles of the capital and compelled the terror-stricken and unprotected inhabitants of the village of Galisteo to furnish them with supplies and to perform menial services.

The depredations of the Navajoes and Apaches in the south and of the Eutaws and Jicarrillas in the north, have rendered industry of no avail and destroyed the two great resources of grazing and mining.

An insufficient number of soldiers, posted not upon the frontier, but in the larger towns, hear of these outrages when the foe is safe beyond the reach of pursuit.

Foot artillery or infantry, with knapsack and musket, can not pursue, with any prospect of success, mounted Indians.

The post of the troops should be the frontier in the enemy's country, and ease and comfort must be laid aside if success would be obtained; energy—the energy of youth—can alone reduce our enemies.

The inhabitants of New Mexico since February 2, 1848, have groaned under a harsh law forced upon them in time of war, when they were thought undeserving of confidence.

The military is independent of and superior to the civil power.

The inhabitants have no voice or influence in making the laws by which they are governed. Some power other than the Congress of the United States has made judges, dependent on its will alone for the tenure of their offices and the amount and payment of their salaries.

Some power other than the Congress of the United States has subjected us to a jurisdiction foreign to the Constitution and unacknowledged by our laws.

We are taxed without our consent, and the taxes, when collected, are not appropriated for the public benefit, but embezzled by officers irresponsible to the people.

No public officer in New Mexico is responsible to the people; judges unlearned in the laws decide upon life, liberty, and property. Prefects and alcaldes impose fines and incarcerate without the intervention of a jury.

Alcaldes assail the right of the people freely to exercise their religion without restriction, and dictate to congregations what priest shall administer the sacrament of the church.

The inhabitants of New Mexico have twice appealed to Congress for redress, and their repeated appeals have been answered by repeated neglect.

The Congress, because of disturbing causes, having failed to make needful rules and regulations respecting the Territory of New Mexico, its inhabitants, encouraged by the President of the United States, and driven by necessity, have formed and ratified a constitution, elected a governor, vice-governor, and members of the legislature.

The legislature is now engaged, in the absence of Congressional legislation, in making laws suited to the wants of the people and consistent with the Constitution of the United States.

In putting in operation the form of government set forth in the constitution, they believe they have done no act inconsistent with a proper respect to the Government of the United States. The form of government adopted by the people of New Mexico is set up in opposition to no government recognized by Congress, or known to the Constitution and laws, but simply takes the place, under circumstances of urgent necessity, of an unacknowledged government, which has utterly failed to protect the inhabitants of New Mexico in their dearest rights, or to preserve the plighted faith of the Government of the United States.

And be it resolved by the said legislature, That our Senators and Representatives in the Congress of the United States be instructed to present the above memorial to the Congress of the United States, and use every exertion to correct the abuses of every class therein mentioned.

W. Z. AUGNEY,
Speaker of House of Representatives.
JOSE NANGLE,
President of Senate.

Inaugural address of Governor Manuel Alvarez, of New Mexico, on July 4, 1850.

The legislature of the State of New Mexico having met for the first time under the constitution just adopted by the people, upon it will devolve the solemn duty of meeting the many contingencies and introducing the various reforms which may be deemed necessary in passing from an inferior condition of political existence to the lofty attitude of a petitioner for admission into the sisterhood of the American Union.

Hitherto, and since the incoming of the American army in 1846, the people have been subjected to the control of a government half civil and half military, and have from necessity participated largely in the evils inherent in such a mixed government. To the people not having hitherto been embraced by Congressional legislation in the classes of Territories, nor having any other civil policy, but the one simply of consent to the government found existing on the termination of the late war with Mexico, it has always been competent to organize such a form of government as to them might seem most just and beneficial.

We have occupied the strange position of an independent people, living on the soil of the United States; and yet without the provision of such a government as would best promote our prosperity and security.

The will of the people acting peaceably is our only and our sovereign guide. In the first organization of government for a people surrounded by circumstances such as we have been, there is no formality nor any legally prescribed mode of ascertaining the popular will; if that will be obtained in any fair and reasonable way, it is the ruling power, the sovereign law, to which the minority is bound to submit. Nor are any nice technicalities to be observed, provided the wishes of the majority are substantially ascertained. Such was our position up to the time of the adoption of the constitution. By such adoption we have established the fundamental law which is the primary voice of the people, is the highest and most obligatory over us, and must be sacredly obeyed, observed and respected, until the same strong voice that proclaimed shall choose to undo it. Hitherto we have had no constitutional guide proceeding from the sovereignty of the people; now, by our own act, we are a constitutional people, and a constitutionally organized government.

There is no power above this act of the people, if we except only the Congress of the United States, which may, if it deem proper, reject our constitution or amend it, or might insist upon giving us a territorial form of government. As the latter is highly improbable, and as we have cogent reasons for believing that the General Government favors our State organization, it is not likely that our present position will be disturbed until the people choose to reform their constitution. Our present commandant of the 9th military department, urged by instructions from Washington, conscious of the evils necessarily emanating from a mixed government, and no doubt tired of the anomalous position he has occupied, responded promptly

to the call of the people asking for a convention, and recommended elections for delegates. As it should have been, this proclamation was issued unconditionally. The people held elections under it; the delegates met, formed their organic law, and the people in their popular majesty have ratified it and made it the first law in the State.

The convention chose a second time the same commandant, in order to insure harmony and concert in the holding of the elections, to proclaim the day of the election and the officers to be selected, to which Colonel Munroe readily answered. The elections have taken place; and as the constitution has been almost unanimously adopted by the people, so also all the offices, from governor to representative, have been filled. This, then, is the will of the people proclaimed by themselves.

Your body is organized, you have taken the oath prescribed by the constitution, and the government is organized. If your organization is good for any one act it is good for all; if it be good to elect Senators to Congress it is sufficient to make all constitutional reforms in our system and our laws necessary for our peace, honor, happiness, or security.

I recommend to the legislature the example of good order, unanimity, and patriotism set by the people in the late election. I trust that your councils and your acts will be marked by zeal for the public weal and ardent patriotism to reform the abuses that have for a long time existed in the government. You will have difficulties to encounter and labors to perform, but I hope you will neither falter nor fatigue.

When I discover in your body many of the most patriotic, talented, and virtuous men of the country I feel assured that your deliberations will be marked with prudence and wisdom. You have all a heartfelt interest in the prosperity of the country, and will not be willing to return to your homes and your families until you have done the public good service. You have my earnest prayers for success in correcting the evils with which the country has long been afflicted.

I will take an early occasion to lay before both houses a notice of the subjects in my opinion most loudly calling for your consideration, and meanwhile remain,

Your fellow citizen,

MANL. ALVAREZ.

Communication of Governor Alvarez, of July 8, 1850.

In my inaugural address of July 4, 1850, I intimated to the legislature that at an early date I would take occasion to call your attention to the subjects in my opinion most worthy your serious consideration and most important to the well-being of the people. It is believed that the great evils that afflict the community are resolvable into: 1st. Insecurity against the external enemy, as Apaches, Navajoes, and other Indian tribes; 2d. The loss of property by the acts of evil doers who live among us and habitually prey upon our rights and our property; and, 3d. The disuse of the vagrant law, allowing opportunity to the evil and depraved to beset and plunder the industrious and honest; 4th. The prevalence of gaming, which attacks and debauches all classes of society; 5th. The inefficient, dilatory, and unsatisfactory manner in which the judicial functions of the government have been conducted for the last three years.

To these subjects your attention is strongly directed, since it is believed that in arresting these evils the tone of the public morals will be elevated, and a new era opened to the people.

With this view I recommend the passage of a law to fix on a just and permanent basis the system of peonage now prevailing in the State, by which rights both of the employer and the employed will be protected.

I recommend the passage of a law to establish some good and proper plan for the summoning and selection of jurymen, to secure to litigants the fair adjucation of their cases. To this end I recommend that a sufficient jury panel, to be composed of honest and respectable and intelligent men, be selected to serve during the court, or during one week of the court, with such compensation as may be deemed by the legislature just and necessary.

I recommend the abolition of the office of prefect, and suggest the propriety of imposing on the circuit court the functions heretofore exercised by these officers, with the exception of the supervision of collection and disbursement of county funds and the control of vagrants, which last matters I would respectfully suggest might be part of the duty of the alcalde of the first instance.

It is submitted to the general assembly whether it would not be proper to constitute in each county an alcalde, to be denominated the alcalde of the first instance, who, in addition to the jurisdiction enjoyed by the other alcaldes, should have the

supervision of vagrants, the adjudication of all cases of right of property where the value does not exceed fifty dollars, the trial and punishment (with the aid of a jury) of all cases of petit larceny; the right to grant the writ of *habeas corpus*, and the supervision and disposition of the county revenues, in so far as the same have heretofore been enjoyed by the prefects.

In regard to the Pueblo Indians it is recommended that a law be passed imposing upon such officer as may be designated the duty of submitting to them the question of taxation and political suffrage, and giving to them sufficient time to determine whether they prefer to exercise the latter with subjection to the former, or whether they reject the former, which should deprive them of the latter. Should the Pueblos choose not to be taxed, then it is deemed proper to relieve them from the burden, as they deprive themselves of the political privileges of the government, and to secure them in all their ancient rights and privileges, and their internal, political, and police regulations.

It is recommended that it be made the duty of some officer existing by nature of the constitution, or constituted by law, to visit the several counties of the State at least twice a year, to examine into the manner in which the alcaldes conduct themselves in office; and that it be his duty to represent to the governor all instances of malfeasances, misfeasance, or nonfeasance by such officers; and giving also to the governor power to suspend such alcalde until the matters complained of may be legally investigated.

It is further suggested that, as the subject of a general diffusion of education is one intimately connected with the moral, social, and political growth and condition of the people, it claims the early and earnest attention of the legislature.

The noblest gift of this newly organized State to her people would be the establishment of a sound and economical system of common schools, and the conferment on every village of the blessing of a schoolroom and a competent teacher.

Among other matters, the collection of a revenue sufficient to meet the economical wants of the State will claim your serious consideration. It may, meantime, be necessary to pass a law to negotiate a loan sufficient to print the laws, and meet necessary accruing expenses. It will be for the general assembly to determine the manner of making, and the extent, of such a loan.

It is respectfully urged that, in imposing a taxation, it be made as light as circumstances will permit; that the subjects of taxation pointed out by the constitution be made to bear a fair share of this burden; and that the administration of justice be made to bear, as far as practicable, a portion of its costs.

It is proposed to fix a tax upon every writ issued by the clerks of the circuit court, and that a jury tax of $3 be taxed on every case in the circuit court tried by jury, to aid in defraying the expenses of the several counties.

Your attention is also directed to the propriety of passing stringent laws on the subject of larceny. The general prevalence of this crime demands from you rigid enactments and severe punishments.

It is hoped proper steps will be taken to secure the uniform, regular, and speedy adjudication of law cases, and that the great delays in their final settlement by adjournment from term to term will hereafter be avoided, and that the legislature will, by legal enactments, enforce all officers to a strict, prompt, and complete discharge of all the duties of their respective offices.

It will be necessary to pass rigid laws on the subject of elections, to secure the people in their rights, to avoid frauds in voting, and to punish with just and exemplary chastisement all public officers who may be so hardy, or so lost to duty, as to attempt to curtail or to infringe this sacred right.

Laws for the election of sheriffs and alcaldes, it is suggested, it would be expedient to adopt as soon as practicable, that the people may have an opportunity of choosing their immediate public servants.

By conferring on the people the choice of their public officers is to extend the sphere of democratic liberty, to fix in the servant a just accountability, and to beget a wholesome spirit of popular zeal and patriotic emulation.

The attention of the legislature is respectfully called to the propriety of addressing a memorial to the American Congress on the subject of the proper military dispositions for the State. The insecurity to which the people have been heretofore exposed, the continual loss of life and property for want of sufficient military force, and the internal location of the soldiery, leave room for a loud appeal to the General Government. Prosperity is impossible while savage tribes living on our frontiers are perpetually despoiling the inhabitants of their richest and most valuable property.

In recommending these subjects to your consideration, I repeat the desire to see your deliberations marked with a zeal and patriotism to serve the public interests.

Most respectfully,

MANUEL ALVAREZ.

The legislature of this State, on the eleventh day of July, A. D. eighteen hundred and fifty, having, in pursuance of the Constitution of the United States of America, chosen Richard H. Weightman a Senator of the United States, I, Manuel Alvarez, acting governor of the State of New Mexico, do hereby certify the same to the Senate of the United States.

Given under my hand and seal (there being no great seal for the State), this fifteenth day of July, A. D. eighteen hundred and fifty, at Santa Fe.

MANUEL ALVAREZ. [L. S.]

By the Governor:
LEWIS D. SHEETZ,
Secretary of State.

To the Congress of the United States:

Your memorialists, delegates to a convention elected by the people of New Mexico to frame a State constitution, having closed their labors, respectfully submit the result to the consideration of your honorable body.

In framing this constitution we have endeavored to keep in view the great principles of republican liberty, and at the same time the desires and the necessities of the people we represent; and in the name of the people of New Mexico we present to you this constitution, and respectfully, but earnestly, urge our immediate admission into the Union.

For four years we have suffered under a government inadequate to the protection of our rights in person or property, or such as we are entitled to as citizens of the United States.

We were promised at the time New Mexico was taken possession of by the American forces, in 1846, the extension of a civil government over us, and protection against the savage foes, which on all sides surround us, and under the treaty with Mexico we were *assured* of our being speedily placed under the full protection of the Constitution, with all the rights and privileges of citizens of the United States. We relied confidently on the promises held out to us; we relied still more on the treaty stipulations; but in all we have been disappointed. Twice have we appealed to Congress, and as often have we failed to obtain its favorable consideration of our situation.

We are without protection from our savage foes; our country is on all sides invaded. Barbarous invaders drive off our flocks and herds by thousands; our citizens, men, women, and children, are murdered or carried into captivity, and hundreds are now suffering a bondage worse than death; our communications from town to town and village have become dangerous; everywhere is met the lurking foe; all enterprise and industry is paralyzed, and many of our citizens are abandoning a country thus insecure and unprotected, feeling, notwithstanding all the promises held out to them, that, in regard to protection against our Indian enemies, New Mexico is now in a worse condition than it has been for the last fifty years.

Our population is diminishing, our wealth is decreasing, and unless we are soon relieved by the favorable consideration of our condition by the Government of the United States ruin to New Mexico must inevitably follow.

Feeling conscious that in this representation of our condition we do not exaggerate, we, as citizens of a common country, entitled to the same rights with all, claim your protection.

Together with our appeal to you for the adoption of our constitution, and our admission into the Union, we earnestly claim from the government an adequate military force, to be properly stationed for the protection of our frontier, and to aid in the extension of settlements on the many fertile valleys of our valuable public domain, now utterly impassable on account of our barbarous enemies.

Never having received donation or aid from the General Government, we confidently rely upon the justice and liberality of Congress, upon our admission into the Union, to grant us the means of educating the rising generation, and the means to establish ourselves as a respectable State.

For the furtherance of these objects, we respectfully ask Congress for the donation of the salines or salt lakes within the boundaries of our Territory. We respectfully ask a donation of public lands, or an appropriation by Congress in lieu thereof, for the same purposes.

We respectfully ask a donation of all public buildings acquired in the conquest of New Mexico, for the uses of State.

We ask an appropriation from Congress for the purposes of a survey and exploration of New Mexico, in order to develop its great mineral wealth and general resources, now little understood, and the investigation of which is utterly impossible by private enterprise, in consequence of the Indian foe everywhere to be encountered.

In submitting our constitution to your honorable body, and asking for it your favorable consideration, we feel conscious that, as a people numbering more than seventy thousand souls, situated as we are, we are not unreasonable in making the above requests, and therefore confidently rely upon your justice and wisdom for speedy and effectual relief from our present situation.

JAMES H. QUINN, *President.*
J. HOUGHTON.
CHAS. OVERMAN.
LEVI J. KEITHLY.
T. MANL. GALLEGER.
FRANCO. ORTIZ Y DELGADO.
CERAN ST. VRAIN.
THOS. S. J. JOHNSON.
GEORGE GOLD.
JOSÉ MA. MARTINEZ.
JOSÉ PABLO GALLEGOS.
JOSÉ ANTO. MANSANARES.
RAMON LUNA.
JOSÉ ANTO. BACA Y PINO.
JUAN PEREA.
ANTONIO JOSÉ OTERO.
MURRAY Y. SULEY.
ROBERT CURY, *Secretary.*
DONACIANO VIGIL.

LANGUAGE AND ALLEGIANCE.

It has been asserted that the people of New Mexico are not Americans, that they speak a foreign language, and that they have no affinity with American institutions. It is true that a large portion of the population in New Mexico speak the Spanish language, and that among the older persons, descended from the original settlers of the country, some still remain ignorant of English. But it is undoubtedly true that there are very few persons in New Mexico under 30 years of age who are unable to speak English, and that year by year the use of the English language is taking the place of Spanish. The sonorous accents of the Spanish tongue will always be dear to those who are descended from the first settlers of New Mexico; they will always look with affection upon that language, and its familiar use may never be wholly eradicated. But the people of New Mexico realize that they are a part of the United States, and that the English language is the national language, and it is a fixed and definite principle among them all that the English language shall be taught to every child in New Mexico. English is now taught in every school. Can the Congress of the United States refuse admission as a State because a part of the people of the proposed State speak the Spanish language?

The ninth article of the treaty of Guadalupe Hidalgo, made on February 2, 1848 (9 Stat. L., 108), promised the admission of New Mexico on these terms:

> Mexicans who, in the territory aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution; and in the meantime shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

This pledge to admit New Mexico as a State contained no condition that all the inhabitants should learn the English language. On the contrary, it was known that Spanish was their tongue, and the treaty-making power was well aware that the language would not wholly disappear for years or even centuries. Yet the agreement was absolute that New Mexico should be admitted as a State within a reasonable discretion remaining in Congress as to the time and manner of admission. It would, therefore, be a violation of the treaty pledge if the people of New Mexico should be told that they could not exercise the rights of statehood until after every inhabitant had learned to speak and write the English language.

But in what just sense can even the Spanish-speaking citizens of New Mexico be classed as a foreign race? If their interests are not with the United States to whom do they hold allegiance? Not to Spain, for Mexico severed the bonds that bound her to the Spanish crown long years ago; not to Mexico, for it now approaches a half century since Mexico yielded to the United States all right and title to the Territory of New Mexico, and all feelings of obligation and allegiance have long since disappeared. The material ties are all with the United States. The great railroads now span New Mexico east and west, and every article of commerce produced in the Eastern States finds its way to these great arteries of travel into New Mexico, while the connection with Old Mexico is difficult and the commerce of but small importance.

It is difficult to see how objection can be made to the admission of New Mexico upon the ground that its inhabitants are of foreign allegiance and interests when no objection on that account was raised to the admission of the Territories of the Northwest. The census of 1880 furnishes information which places New Mexico in the highest rank of all the then existing Territories of the United States in the proportion which its native-born inhabitants bear to their whole number. The following table from the census of 1880 shows the proportion of native-born to foreign-born inhabitants in the Territories of Dakota, Montana, New Mexico, and Washington:

Territories.	Native.	Foreign.
Dakota	83 382	51,795
Montana	27,638	11,521
New Mexico	111,514	8,051
Washington	50,313	13,868

From this it will be seen that while the proportion of foreign to native born population is about 1 to 14 in New Mexico, it is 1 to 4 in Washington, 1 to 3 in Montana, and 2 to 3 in Dakota.

Can it be said that a native of New Mexico who renounced his allegiance to the Republic of Mexico over forty years ago has less interest in the Government of the United States, less devotion to republican principles, or less fitness for full American citizenship than a subject of European kingdoms who has within a few years left his native home? The honorable and industrious inhabitants of New Mexico of Spanish descent are devoted to American principles, will ever uphold the American Constitution, and will continue to honor and support the American flag as the sign and the symbol of that Government under whose authority they have so long lived. The mingling of the blood of the Spanish race with that of the Anglo-Saxon, such as is now taking place in New Mexico, can not fail to produce, as such mixtures always have done, wonderful results of the greatest benefit to humanity, and we dare say that before many years have elapsed, under the genial warmth of the sun which always shines upon New Mexico, aided by the material prosperity which is now pouring in upon her from the East, New Mexico will raise up, to the glory and pride of our common country, orators, poets, artists, and statesmen of the highest rank.

Fifteen years after the Territory became a part of the United States New Mexico was called upon to furnish soldiers to defend the Union. There was no hesitation in responding to the demand. New Mexico furnished 8,000 soldiers to the Union during the late war, being more than were furnished by all the other then existing Territories combined,

including the present States of Nebraska, Nevada, Colorado, Washington, North and South Dakota, Montana, Idaho, and Wyoming. These troops were in greater part commanded by persons of Spanish descent, and the ranks were filled by the same race, but, although only fourteen years citizens of the United States, the people of the Territory did not hesitate to devote themselves to the interests of the country as readily as if born under its flag. Numerous wealthy citizens voluntarily loaned money to the Government at the outbreak of the war on the request of the military authorities when the United States had no funds in the Territory. More than thirty years have elapsed since then, and yet it is said that the people of New Mexico are not Americans.

Among the officers of the New Mexican volunteers appear the names, all showing their Spanish descent, of Col. José Maria Valdez, Col. Diego Archuleta, Col. Manuel Chavez, Col. Facundo Pino, Col. J. Francisco Chavez, Col. Francisco Abreu, Maj. José D. Sena, Maj. Rafael Chacon, Maj. Pedro Sanchez, and many others equally well known. These fought side by side with such men as Col. Christopher Carson, who commanded the First Regiment of New Mexico Cavalry, and Col. Ceran St. Vrain, an officer who came to New Mexico from St. Louis and cast in his fortunes with the people of that Territory. The people of New Mexico look with pride upon the achievements of these noble heroes. In the storm of battle they proved their title to American citizenship, and, having then responded so nobly and so freely to the call of patriotism, it is now too late, after forty years of American citizenship, to dispute the devotion of the New Mexican people to the American Constitution and the American Government.

Their interest in popular government is not less than that of citizens of the East, as may be seen from the exercise of the elective franchise. Out of a population reported by the census at 153,593, the popular vote for Delegate was 32,355, a proportion of voters rarely exceeded, and the more remarkable because of the great distances and difficulties in reaching the polls in a country not thickly settled. The flag of this country is large enough to float alike over persons of English and Spanish descent; the principles of the Constitution are great enough to command the admiration of all lovers of liberty. The people of New Mexico are as much citizens of the United States as the people of Ohio, Indiana, or Illinois. What they desire is to be admitted to the full rights of citizenship and allowed to bear their share of the burdens of the common defense and general welfare. If New Mexico becomes a State her mines will be developed, her railroads extended, her schools enlarged, and she will take upon herself a new encouragement for progress. When once the natural resources of New Mexico are developed the whole nation will wonder that so rich a section of our country should so long have remained a Territory. Differing in many points from the other parts of our great Union, she will minister to the wants of the whole country.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 156.

WORLD'S FAIR PRIZE WINNERS' EXPOSITION.

OCTOBER 31, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. COCKRAN, from the Committee on Ways and Means, submitted the following

REPORT:

[To accompany H. R. 4015.]

The Committee on Ways and Means, to which was referred the bill (H. R. 4015) "in aid of the World's Fair Prize Winners' Exposition, to be held at New York City" from and after November 24, 1893, to January 15, 1894, respectfully reports:

The purpose of the bill is to extend to foreign exhibitors at said exposition the same privileges of free entry for exhibits which have heretofore been extended to exhibitors at the late World's Columbian Exposition, the Centennial, and other expositions. It is a measure of justice to foreign guests who have been invited to display their wares in this country. It is consistent with our policy of encouraging industrial exhibitions, which have always proved of educational advantage to the people.

Your committee therefore reports the bill with the recommendation that it be passed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 157.

HEIRS OF GEORGE W. BARNES.

NOVEMBER 1, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. R. 2688.]

The Committee on Foreign Affairs, to which was referred House bill 2688, after proper consideration recommend the passage of the bill and adopt the report submitted by Mr. Cable, from the Committee on Foreign Affairs of the Fifty-second Congress.

Said report is as follows:

This bill authorizes and directs the Secretary of State to withdraw from the files of the State Department and to deliver to the heirs or legal representatives of the late George W. Barnes certain papers, filed there during the sitting and for the consideration of the late American and Mexican Claims Commission, to establish the justice of a claim made by the late George W. Barnes, as assignee, against the Mexican Government.

The said claim, after an examination by the Commissioners, was not allowed.

It is the belief of the heirs of the late George W. Barnes, that the justice of this claim may be established in the Mexican courts and allowance made by them, although refused in the international court representing both countries.

To accomplish this end it will be necessary for them to lay the original documents before these courts, and they therefore pray that the Congress of the United States may direct all of these papers to be restored to their possession.

Inasmuch as such authority has been granted from time to time in the past (in one instance the papers in a claim rejected by the same American-Mexican Claims Commission having been restored), and inasmuch as there is no apparent reason why this petition should be refused, while it might result in hardship and injustice if denied, the committee therefore recommend the passage of this bill.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 158.

SECURITIES OF JOHN S. BRADFORD.

NOVEMBER 1, 1893.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCCREARY, from the Committee on Foreign Affairs, submitted the following

REPORT:

[To accompany H. R. 4209.]

The Committee on Foreign Affairs, to whom was referred the bill (H. R. 4209) entitled "A bill for the relief of the securities of John S. Bradford, deceased," have considered the same and report:

John S. Bradford was appointed consul at Antigua, West Indies, August 19, 1890, and did not enter upon the discharge of his duties for nearly one month after his appointment. His health was bad from the commencement of his service, and, after a severe illness of three months, he died on the 6th of August, 1891, having held the office less than ten months.

During the time he was in office he paid nothing to his wife, Rosalie M. Bradford, to aid her in supporting the family, and she advanced money to him to aid him in paying the expense of his trip to Antigua and obtaining proper outfit, no part of which has ever been paid to her. His ill-health prevented him from attending to his duties in person and he obtained such assistance as was possible under the circumstances.

After his death on a final adjustment of his accounts, his unpaid salary and allowance for stationery, etc., being retained by the Treasury Department, he was found indebted to the Government in the sum of $239.06. His wife, Rosalie M. Bradford, and John Cassels are his securities, but his wife will have to pay said amount if it is not released, and can not do so without a sacrifice.

The committee therefore recommend that the bill pass.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 159.

EQUALIZATION OF SALARIES OF INSPECTORS OF STEAM VESSELS.

NOVEMBER 2, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. MALLORY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 2377.]

The Committee on Interstate and Foreign Commerce to whom was referred the bill (H. R. 2377) to amend "An act to amend section 4400 of title 52 of the Revised Statutes of the United States, concerning the regulation of steam vessels," approved August 7, 1882; and also to amend section 4414, title 52, of the Revised Statutes, "regulation of steam vessels," having had the same under consideration, report it back with amendments, and with the recommendation that the bill as so amended do pass.

Amend section 2 as follows:

Strike out the whole of lines 25 and 26.

In line 27 strike out the words "over one hundred and."

In line 30 strike out the word "over."

This bill is the same in all respects as S. 1752 of the Fifty-first Congress and as S. 744 of the Fifty-second Congress, which bills passed the Senate, were reported favorably upon by the Committees on Commerce of the House of Representatives in each of those Congresses, but failed to pass the House of Representatives because they were not reached on the Calendar. S. 744 of the Fifty-second Congress was amended by this committee in its report in the same manner in which this bill is proposed to be amended, and for the same reasons—"that it is not thought that any capable inspector of steam vessels can be secured at a less salary than $1,500 per annum." Those reasons are "emphatically indorsed" by the Treasury Department.

The purpose of the present bill is to equalize and to keep in a state of equalization the salaries of inspectors of hulls and boilers of steam vessels, which, doubtless equitably arranged in 1871, have not been rearranged since that time, and the schedule of which at this time is, to use the Department's words, "eminently inequitable and unjust." As an instance of this there are boards of local inspectors receiving, under existing schedules, salaries of $2,000 per annum and inspecting less than 100 steam vessels annually, whereas there are other local boards of inspectors, inspecting upwards of 200 steamers annually, whose salaries are but $800, $900, and $1,200, respectively.

Should this bill be passed not only will this condition of things be changed, but it can not occur again. Each of these inspectors will

receive and continue to receive just what his work entitles him to receive, no more, no less.

The bill abolishes the offices of "inspectors of foreign steam vessels," and their duties, if any, will be transferred to the local boards of inspectors. But the offices proposed to be abolished are, we are assured, virtually sinecures, and ought to be abolished.

The saving of the system proposed by this bill and amendments, over the existing system, would amount to $12,800 annually.

Attached to this report, and made a part of it, are letters from the Acting Secretary of the Treasury and the Supervising Inspector-General of Steam Vessels, of September 22, 1893, and a table showing the number of vessels inspected in each port during the year ending June 30, 1893, and a comparison between existing salaries and those which would be received under the schedules proposed by this bill.

Those letters show the entire concurrence of the Treasury Department in the views of this report, including the amendments it suggests.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., September 22, 1893.

SIR: I have the honor to transmit herewith a report of the Supervising Inspector-General Steamboat Inspection Service, upon H. R. bill 2377, extraordinary session, Fifty-third Congress, referred to this Department by your committee, requesting the Secretary of the Treasury to furnish the committee with such suggestions as he may deem proper touching the merits of the bill and the propriety of its passage, and particularly desiring the Secretary to state "whether the proposed schedule of salaries is a proper one, and what, if any, saving would accrue to the Government from its adoption."

The report of the Supervising Inspector-General meets with my approval, if the bill is amended in accordance with his recommendations.

Very respectfully,

C. S. HAMLIN,
Acting Secretary.

Hon. GEORGE D. WISE, M. C.,
Chairman of the Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

TREASURY DEPARTMENT,
OFFICE OF SUPERVISING INSPECTOR-GENERAL OF STEAM VESSELS,
Washington, D. C., September 22, 1893.

SIR: I have the honor to acknowledge, by reference to this office, the receipt of letter dated the 16th instant, from the Committee on Interstate and Foreign Commerce, House of Representatives, addressed to the honorable the Secretary of the Treasury, inclosing a copy of House bill 2377, extraordinary session Fifty-third Congress, entitled, "A bill to amend 'An act to amend section 4400 of Title LII of the Revised Statutes of the United States, concerning the regulation of steam vessels,' approved August 7, 1882, and also to amend section 4414, Title LII of the Revised Statutes, 'Regulation of steam vessels,'" requesting the Secretary "to furnish the committee with such suggestions as you (he) may deem proper touching the merits of the bill and the propriety of its passage," and particularly desiring the Secretary to state "whether the proposed schedule of salaries is a proper one, and what if any saving would accrue to the Government from its adoption."

I have the honor to report that the bill (H. R. 2377) is the same in all its terms as Senate bill 1752, introduced at the first session of the Fifty-first Congress, and passed

by that body, I think, without a dissenting vote, and as Senate bill 744, Fifty-second Congress, which was similarly adopted by the Senate, but in each case failed in the House of Representatives, though reported favorably by the committee having the bills in charge, through inability to reach them in their regular place on the Calendar, but which would undoubtedly also have passed the House of Representatives, and with but slight opposition, could they have been brought to a vote.

Each of the bills had the hearty support of the honorable Secretaries then in office.

The bill under consideration contemplates an equalization of the salaries of local inspectors in the various districts in accordance with the amount of work done by each local board and the comparative responsibility incurred in each case in accordance with such work.

When the present rate of salaries was adopted in 1871 they were, no doubt, equitably arranged, but the increase in the number of vessels at what were small ports then has been such that the number of vessels has multiplied four and fivefold, whilst in other ports where high salaries were paid the work has stood still and in some cases decreased, so that the "schedule" of salaries at the present date is eminently inequitable and unjust; for instance, there are boards of local inspectors receiving salaries of $2,000 per annum who inspect less than 100 steam vessels annually, whereas there are other local boards of inspectors who inspect upward of 200 steamers annually whose salaries are but $800, $900, and $1,200, respectively. A marked case of inequality in salaries is illustrated in the fifth supervising inspection district, where there are but two local boards of inspectors, namely, at Duluth, Minn., and Dubuque, Iowa, the inspectors in the first-named port inspecting 156 steamers during the last fiscal year at salaries of $1,200 per annum, whilst the last-named port inspected but 124 steamers at salaries of $2,000 each.

The bill under consideration, if enacted into law, would give the Secretary of the Treasury the power to regulate the salaries equitably each year in proportion to work done, somewhat in the manner of existing law regarding postmasters.

The net saving to the Government would be in reducing salaries below that now authorized by law to the amount of $19,400 per annum, as follows:

REDUCTION.

Salaries special inspectors foreign steam vessels	$32,000
Salaries clerks to inspectors foreign steam vessels	7,200
Salaries local inspectors of steam vessels	7,000
Salaries two assistant inspectors, Boston, discontinued	3,200
Total	49,400

INCREASE.

Salaries local inspectors increased	$22,200
Salaries local inspectors new district of Providence, R. I., created in bill	3,000
Salaries three foreign inspectors (at $2,000 salary) transferred to domestic inspection service as assistant inspectors, at salaries of $1,600	4,800
Total increase	30,000
Total reductions	49,400
Net saving in salaries	19,400

Under the proposed law the lowest salaries for local inspectors are to be $1,200 each. Senate bill 744, heretofore referred to, was amended to make the lowest salaries $1,500. I would recommend that the present bill be amended in the same manner, namely, by amending section 2 of the bill by striking out the whole of the paragraph beginning at the twenty-fifth line of the said section and which runs in

the words "in districts inspecting less than one hundred steamers, to a salary of one thousand two hundred dollars per year each." In the paragraph immediately succeeding the words recommended to be stricken out, and in the first line thereof, strike out the words "over one hundred and." In the paragraph immediately succeeding the paragraph last indicated, and in the first line thereof, strike out the word "over."

The committee's reasons for the amendment proposed, which are emphatically indorsed by this office, are as follows:

"These amendments are deemed wise for the reason that it is not thought that any capable inspector of steam vessels can be secured at a less salary than $1,500 per annum." (Report 1972, Senate bill 744.)

If the bill is amended as proposed it will increase the salaries of the inspectors of eleven local boards $300 per annum each over those proposed in House bill 2377, adding altogether the sum of $6,600 to that proposed in the bill. This sum subtracted from the sum of salaries therein proposed would still leave a net saving to the Government below the salaries now authorized of $12,800.

Inclosed herein will be found a detailed table showing present salaries of inspectors as authorized by law, number of steamers inspected in each district, and salaries as they will be if the bill under consideration becomes law without the amendment suggested.

Referring to the abolishment of the offices of "inspectors of foreign steam vessels," which the bill under consideration accomplishes, attention is called to the recommendation on the subject by the honorable Secretary of the Treasury, William Windom, in his annual report for 1889, p. LXXXVI, as follows:

"It is recommended that all laws be repealed which provide a separate establishment for the inspection of foreign steam vessels, and that the inspectors of domestic steam vessels be authorized and required to perform all necessary services in connection with the inspection of foreign steamships.

"The offices proposed for abolition are virtually sinecures, and much sought after in consequence, and until they are abolished the Executive will remain subjected to importunity to fill them."

Which recommendation was repeated by Secretary Chas. Foster, report of 1891, page LIV.

The bill considered is inclosed herein, in which I have on page 3 drawn a pencil mark through the words to be stricken out, to correspond with the amendment made therein by the committee of the Fifty-second Congress, heretofore referred to.

Very respectfully,

JAS. A. DUMONT,
Supervising Inspector-General.

The SECRETARY OF THE TREASURY.

Local Boards of Inspectors.

Ports.	Vessels inspected, year ended June 30, 1893.	Salary of each local inspector present.	Proposed.	Salary of board (2 inspectors), aggregate present.	Aggregate proposed.	Salaries of board (2 inspectors), aggregate reduction.	Aggregate increase.
San Francisco, Cal..	256	$2,000	$2,000	$4,000	$4,000	.....	.....
Portland, Oregon...	170	1,200	1,800	2,400	3,600	.....	$1,200
Seattle, Wash.....	206	800	2,000	1,600	4,000	.....	2,400
New York, N. Y...	1,169	2,200	2,500	4,400	5,000	.....	600
Albany, N. Y	221	1,200	2,000	2,400	4,000	.....	1,600
Boston, Mass.....	485	2,000	2,000	4,000	4,000	.....	.....
New London, Conn.	251	1,200	2,000	2,400	4,000	.....	1,600
Philadelphia, Pa...	369	2,000	2,250	4,000	4,500	.....	500
Portland, Me.....	223	1,200	2,000	2,400	4,000	.....	1,600
Baltimore, Md	310	2,000	2,250	4,000	4,500	.....	500
Norfolk, Va	194	1,200	1,800	2,400	3,600	.....	1,200
Charleston, S. C....	104	1,200	1,500	2,400	3,000	.....	600
Savannah, Ga.....	193	1,200	1,800	2,400	3,600	.....	1,200
St. Louis, Mo.....	160	2,000	1,800	4,000	3,600	400	.....
Duluth, Minn.....	156	1,200	1,800	2,400	3,600	.....	1,200
Dubuque, Iowa.....	124	2,000	1,500	4,000	3,000	1,000	.....
Evansville, Ind.....	93	1,200	1,200	2,400	2,400	.....	.....
Louisville, Ky.....	57	2,000	1,200	4,000	2,400	1,600	.....
Memphis, Tenn....	83	1,500	1,200	3,000	2,400	600	.....
Nashville, Tenn....	77	1,200	1,200	2,400	2,400	.....	.....
Cincinnati, Ohio....	93	2,000	1,200	4,000	2,400	1,600	.....
Gallipolis, Ohio	85	1,200	1,200	2,400	2,400	.....	.....
Wheeling, W. Va ...	52	1,200	1,200	2,400	2,400	.....	.....
Pittsburg, Pa.....	146	2,000	1,500	4,000	3,000	1,000	.....
Detroit, Mich	164	2,000	1,800	4,000	3,600	400	.....
Chicago, Ill	290	2,000	2,000	4,000	4,000	.....	.....
Grand Haven, Mich.	207	900	2,000	1,800	4,000	.....	2,200
Marquette, Mich...	95	800	1,200	1,600	2,400	.....	800
Port Huron, Mich...	208	2,000	2,000	4,000	4,000	.....	.....
Milwaukee, Wis....	226	2,000	2,000	4,000	4,000	.....	.....
Buffalo, N. Y	349	2,000	2,250	4,000	4,500	.....	500
Burlington, Vt.....	49	800	1,200	1,600	2,400	.....	800
Oswego, N. Y.....	129	800	1,500	1,600	3,000	.....	1,400
Cleveland, Ohio....	308	1,500	2,250	3,000	4,500	.....	1,500
New Orleans, La...	288	2,200	2,000	4,400	4,000	400	.....
Galveston, Tex....	69	1,200	1,200	2,400	2,400	.....	.....
Apalachicola, Fla...	77	800	1,200	1,600	2,400	.....	800
Mobile, Ala.....	101	1,500	1,500	3,000	3,000	.....	.....
Total.....	.....	57,400	65,000	114,800	130,000	7,000	22,200
Providence, R. I., (new district created in bill).....	*140	.....	1,500	.....	3,000	.....	3,000
*No. steamers (estimated), 140 to be taken from Boston district, causing discontinuance of 2 assistant inspectors, Boston						3,200	.....
16 special inspectors of foreign steam vessels abolished.....						32,000	.....
6 clerks to inspectors of foreign steam vessels abolished.....						7,200	.....
Salaries 3 foreign inspectors (at $2,000 salaries) transferred to domestic inspection service as assistant inspectors at $1,600.....						.....	4,800
Aggregate.....		57,400	66,500	114,800	133,000	49,400	30,000

*Estimated.

Net amount of decrease of salaries authorized under existing laws, $19,400.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 160.

DAM ACROSS THE KANSAS RIVER.

NOVEMBER 2, 1893.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. BLANCHARD, from the Committee on Rivers and Harbors, submitted the following

REPORT:

[To accompany H. R. 340.]

The Committee on Rivers and Harbors, having had under consideration the bill (H. R. 340) entitled "a bill to authorize the construction and maintenance of a dam or dams across the Kansas River, within Shawnee County, in the State of Kansas, report the same back to the House with the following amendments, and thus amended, your committee recommend the passage of the bill:

Amend section 1 by adding the following proviso:

Provided, That on notice by the Secretary of War, that said dam or dams are material obstructions to navigation, said dam or dams shall be at once removed, or suitable lock or locks provided by the owner or owners thereof at his or their expense, so as not to interfere with navigation: *And provided further*, That, if after due and sufficient notice in such case, the owner or owners of said dam or dams shall neglect or fail to provide suitable lock or locks, or otherwise modify or remove said obstructions, in such manner as the Secretary of War may direct, the said Secretary is hereby authorized and directed to cause suitable lock or locks to be provided, or said obstruction to be removed, or modified at the expense of the United States, and to institute proceedings against the person or persons or corporation owning or controlling said dam or dams for the recovery of the expense thereof before the circuit court of the United States, in and for the district in which said dam or dams may be located.

Also amend the bill by adding the following section thereto:

SEC. 3. That the dam or dams herein provided for shall be commenced within one year from the date of the approval of this act, and completed within three years, under penalty of the forfeiture of the franchise herein granted.

Your committee submit herewith, and as a part of this report, certain letters from the Secretary of War, the Chief of Engineers, and the local engineer in charge.

WAR DEPARTMENT,
Washington, D. C., October 12, 1893.

SIR: I have the honor to return herewith H. R. 340, Fifty-third Congress, first session, "To authorize the construction and maintenance of a dam or dams across the Kansas River, within Shawnee County, in the State of Kansas," which was referred to this Department on the 10th instant, and to invite your attention to the inclosed letter from the Chief of Engineers, dated the 11th instant, submitting a copy of the report of Lieut. Col. Charles R. Suter, Corps of Engineers, President of the Missouri River Commission, dated September 1, 1893, on Senate bill 105 of the present session, which is similar in its provisions to the bill now under consideration.

A copy of the present House bill, amended by the Chief of Engineers, is also herewith, and as amended that officer remarks that he sees no objection, so far as the interests of navigation are concerned, to its passage.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON RIVERS AND HARBORS,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS,
UNITED STATES ARMY,
Washington, D. C., October 11, 1893.

SIR: I have the honor to acknowledge reference to this office, for report, of letter of the 10th instant from the Committee on Rivers and Harbors of the United States House of Representatives, inclosing with request for War Department views thereon H. R. 340, Fifty-third Congress, first session, "A bill to authorize the construction and maintenance of a dam or dams across the Kansas River, within Shawnee County, in the State of Kansas."

This bill is similar in its provisions to Senate bill No. 105, Fifty-third Congress, first session, concerning which report was submitted to this office by Lieut. Col. C. R. Suter, Corps of Engineers, September 1, 1893, a copy of which is inclosed.

It is recommended that the inclosed bill (H. R. 340) be amended by inserting the following provision at the end of section 1:

Provided, That on notice by the Secretary of War that said dam or dams are material obstructions to navigation, said dam or dams shall be at once removed, or suitable lock or locks provided by the owner or owners thereof, at his or their expense, so as not to interfere with navigation: *And provided further*, That if, after due and sufficient notice in such case, the owner or owners of said dam or dams shall neglect or fail to provide suitable lock or locks or otherwise modify or remove said obstructions, in such manner as the Secretary of War may direct, the said Secretary is hereby authorized and directed to cause suitable lock or locks to be provided, or said obstructions to be removed or modified at the expense of the United States, and to institute proceedings against the person or persons or corporation owning or controlling said dam or dams for the recovery of the expense thereof before the circuit court of the United States in and for the district in which said dam or dams may be located.

A copy of the bill with proposed amendment indicated thereon is inclosed.

With this amendment inserted I see no objection, so far as the interests of navigation are concerned, to the passage of the bill by Congress.

The letter of the committee, with its inclosure, is herewith returned.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. D. S. LAMONT,
Secretary of War.

MISSOURI RIVER COMMISSION, OFFICE OF THE PRESIDENT,
St. Louis, Mo., September 1, 1893.

SIR: I have the honor to return inclosed bill S. 105, Fifty-third Congress, first session, "Granting to the Chicago-Topeka Light, Heat and Power Company, a corporation organized under the laws of Illinois, the right to erect and maintain a dam or dams across the Kansas River, within Shawnee County, in the State of Kansas," referred to me for report by your letter of August 16, 1893.

An almost identical bill was passed by the Fifty-second Congress, first session (Public No. 77, approved June 6, 1892). The first draft of this bill S. No. 2437, Fifty-second Congress, first session, referred to me for report by your letter of March 5, 1892, contained this proviso, which it seems to me advisable to insert in the present bill:

Provided, That on notice by the Secretary of War that said dam or dams are material obstructions to navigation, said dam or dams shall be at once removed, or suitable lock or locks provided by the owner or owners thereof, at his or their expense, so as not to interfere with navigation: *And provided further*, That if after due and sufficient notice in such case the owner or owners of said dam or dams shall fail to provide suitable lock or locks, or otherwise modify or remove said obstructions, in such manner as the Secretary of War may direct, the said Secretary is hereby authorized and directed to cause suitabte lock or locks to be provided, or said obstructions to be removed or modified at the expense of the United States, and to institute proceedings against the person or persons or corporation owning or controlling said dam or dams for the recovery of the expense thereof before the circuit court of the United States in and for the district in which said dam or dams may be located.

Very respectfully, your obedient servant,

CHAS. R. SUTER,
Lieut. Col. of Engineers, U. S. A.,
President Missouri River Commission.

Brig. Gen. THOS. L. CASEY,
Chief of Engineers, U. S. A., Washington, D. C.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 161.

BIRMINGHAM, SHEFFIELD AND TENNESSEE RAILROAD COMPANY.

NOVEMBER 2, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. HALL, of Minnesota, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 198.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 198) "A bill granting to the Birmingham, Sheffield, and Tennessee Railroad Company a right of way over the public lands traversed by it," submit the following report:

Your committee recommend that said H. R. 198 be amended by striking out therefrom all that part thereof commencing with the words "there is also," in the fifteenth line thereof, down to and including the words "of its road," in the last line thereof. And the committee further recommend that said bill as thus amended be passed.

The letter of the Commissioner of the General Land Office, dated October 10, 1893, is herewith submitted as a part of this report.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 10, 1893.

SIR: I have the honor to acknowledge the receipt by reference from the Department, for report, of House bill No. 198, "To grant the Birmingham, Sheffield, and Tennessee Railroad Company a right of way over the public lands transversed by it."

In response, I have to report that there is no objection to granting the right of way provided for in the bill, as the act of March 3, 1875, already provides for the acquirement thereof, but as a means of securing the benefits proposed already exists, there would seem to be no necessity for its passage.

The copy of bill and the letter accompanying it are herewith returned.

Very respectfully,

S. W. LAMOREUX,
Commissioner.

The SECRETARY OF THE INTERIOR.

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53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 162.

ADMISSION OF UTAH.

NOVEMBER 2, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. KILGORE, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 352.]

Your committee, to whom was referred the bill (H. R. 352) entitled "A bill to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States," have had the same under consideration and respectfully report as follows:

On January 4, 1893, President Harrison issued the following:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas Congress, by a statute approved March 22, 1882, and by statutes in furtherance and amendment thereof, defined the crimes of bigamy, polygamy, and unlawful cohabitation in the Territories and other places within the exclusive jurisdiction of the United States, and prescribed a penalty for such crimes; and

Whereas on or about the 6th day of October, 1890, the Church of the Latter Day Saints, commonly known as the Mormon Church, through its president, issued a manifesto proclaiming the purpose of said church no longer to sanction the practice of polygamous marriages, and calling upon all members and adherents of said church to obey the laws of the United States in reference to said subject-matter; and

Whereas it is represented that since the date of said declaration the members and adherents of said church have generally obeyed said laws and have abstained from plural marriages and polygamous cohabitation; and

Whereas by a petition dated December 19, 1891, the officials of said church, pledging the membership thereof to a faithful obedience to the laws against plural marriages and unlawful cohabitation, have applied to me to grant amnesty for past offenses against said laws, which requests a very large number of influential non-Mormons residing in the Territories have also strongly urged; and

Whereas the Utah Commission, in their report bearing date September 15, 1892, recommend that said petition be granted and said amnesty proclaimed, under proper conditions as to the future observance of the law, with a view to the encouragement of those now disposed to become law-abiding citizens; and

Whereas during the past two years such amnesty has been granted to individual applicants in a very large number of cases, conditioned upon the faithful observance of the laws of the United States against unlawful cohabitation, and there are now pending many more such applications; now,

Therefore, I, Benjamin Harrison, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons liable to the penalties of said act by reason of unlawful cohabitation under the color of polygamous or plural marriage, who have since November 1, 1890, abstained from such unlawful cohabitation; but on the express condition that they shall in future faithfully obey the laws of the United States hereinbefore named, and not otherwise.

Those who shall fail to avail themselves of the clemency hereby offered will be vigorously prosecuted.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourth day of January in the year of our Lord one thousand eight hundred and ninety-three, and of the Independence of the United States the one hundred and seventeenth.

[SEAL.] BENJAMIN HARRISON.

By the President:

JOHN W. FOSTER,

Secretary of State.

DISCONTINUANCE OF POLYGAMY.

The manifesto referred to by the President in his amnesty proclamation was issued by the president of the Mormon Church on September 25, 1890. This is the manifesto:

To whom it may concern:

Press dispatches having been sent for political purposes from Salt Lake City, which have been widely published, to the effect that the Utah Commission, in their recent report to the Secretary of the Interior, allege that plural marriages are still being solemnized, and that forty or more such marriages have been contracted in Utah since last June or during the past year; also that in public discourses the leaders of the church have taught, encouraged, and urged the continuance of the practice of polygamy,

I, therefore, as president of the Church of Jesus Christ of Latter Day-Saints, do hereby, in the most solemn manner, declare that these charges are false. We are not teaching polygamy, or plural marriage, nor permitting any person to enter into its practice, and I deny that either forty or any number of plural marriages have during that period been solemnized in our temples or in any other place in the Territory.

One case has been reported in which the parties alleged that the marriage was performed in the endowment house, in Salt Lake City, in the spring of 1889, but I have not been able to learn who performed the ceremony. Whatever was done in the matter was without my knowledge. In consequence of this alleged occurrence the endowment house was, by my instructions, taken down without delay.

Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and to use my influence with the members of the church over which I preside to have them do likewise.

There is nothing in my teachings to the church or in those of my associates, during the time specified, which can be reasonably construed to inculcate or encourage polygamy, and when any elder of the church has used language which appeared to convey any such teaching he has been promptly reproved, and I now publicly declare that my advice to the Latter-Day Saints is to refrain from contracting any marriage forbidden by the laws of the land.

WILFORD WOODRUFF,

President of the Church of Jesus Christ of Latter-Day Saints.

On the 6th day of October, 1890, eleven days after the manifesto was issued, the church met in general conference. It is estimated that from ten to fifteen thousand people were present. Every quorum and council of the church, from the first presidency and twelve apostles down to the least authority in the church, were represented. There were officers and members present from every stake in Utah, and from all the country round about. This manifesto was read to that assembly, and Lorenzo Snow, the president of the council of apostles, the next highest authority in the church to the first presidency, made the following motion, which was unanimously adopted:

I move that, recognizing Wilford Woodruff as the president of the Church of Jesus Christ of Latter-Day Saints, and the only man on the earth at the present time who holds the keys of the sealing ordinances, we consider him fully authorized by virtue of his position to issue the manifesto which has been read in our hearing and which is dated September 25, 1890, and that as a church in general conference assembled, we accept his declaration concerning plural marriage as authoritative and binding.

Referring to this manifesto in his message to the Secretary of the Interior for the year 1891, the governor of Utah says:

I have no doubt that, as they have been led to believe it was put forth by divine sanction, it will be received by the members of the Mormon Church as an authoritative rule of conduct, and that, in effect, the practice of polygamy is formally renounced by the people.

One year after, the church spoke again on this important subject. On October 6, 1891, the first presidency of the church made the following official declaration to the conference, which was unanimously indorsed by the vast assemblage present:

Concerning the official report of the Utah Commission made to the Secretary of the Interior, in which they allege, "During the past year, notwithstanding the 'manifesto,' reports have been received by the Commission of eighteen male persons who, with an equal number of females, are believed to have entered into polygamous marriages" during the year, we have to say it is utterly without foundation in truth. We repeat in the most solemn manner the declaration made by President Wilford Woodruff at our general conference held last October, that there have been no plural marriages solemnized during the period named.

Polygamy or plural marriage has not been taught, neither has there been given permission to any person to enter into its practice, but, on the contrary, it has been strictly forbidden.

WILFORD WOODRUFF,
GEORGE Q. CANNON,
JOSEPH F. SMITH,
First Presidency of the Church of Jesus Christ of Latter-Day Saints.

PETITION FOR AMNESTY.

The petition for amnesty referred to by the President in his proclamation is as follows:

SALT LAKE CITY, *December 19, 1891.*

To the PRESIDENT:

We, the First Presidency and Apostles of the Church of Jesus Christ of Latter-Day Saints, beg respectfully to represent to your excellency the following facts:

We formerly taught to our people that polygamy, or celestial marriage, as commanded by God through Joseph Smith, was right; that it was a necessity to man's highest exaltation in the life to come.

That doctrine was publicly promulgated by our president, the late Brigham Young, forty years ago, and was steadily taught and impressed upon the Latter-Day Saints up to a short time before September, 1890. Our people are devout and sincere, and they accepted the doctrine, and many personally embraced and practiced polygamy.

When the Government sought to stamp the practice out, our people almost without exception remained firm, for they, while having no desire to oppose the Government in anything, still felt that their lives and their honor as men were pledged to a vindication of their faith; and that their duty toward those whose lives were a part of their own was a paramount one, to fulfill which they had no right to count anything, not even their own lives, as standing in the way. Following this conviction, hundreds endured arrest, trial, fine, and imprisonment, and the immeasurable suffering borne by the faithful people no language can describe. That suffering, in abated form, still continues.

More, the Government added disfranchisement to its other punishments for those who clung to their faith and fufilled its covenants.

According to our faith the head of our church receives from time to time revelations for the religious guidance of his people.

In September, 1890, the present head of the church, in anguish and prayer, cried to God for help for his flock, and received the permission to advise the members of the Church of Jesus Christ of Latter-Day Saints that the law commanding polygamy was henceforth suspended.

At the great semi-annual conference, which was held a few days later, this was submitted to the people, numbering many thousands and representing every community of the people in Utah, and was by them in the most solemn manner accepted as the future rule of their lives.

They have since been faithful to the covenant made that day.

At the late October conference, after a year had passed by, the matter was once more submitted to the thousands of people gathered together, and they again in the most potential manner ratified the solemn covenant.

This being the true situation, and believing that the object of the Government was simply the vindication of its own authority and to compel obedience to its laws, and that it takes no pleasure in persecution, we respectfully pray that full amnesty may be extended to all who are under disabilities because of the operations of the so-called Edmunds and Edmunds-Tucker laws. Our people are scattered; homes are made desolate; many are still in prison; others are banished or in hiding. Our hearts bleed for these. In the past they followed our counsels, and while they are thus afflicted our souls are in sackcloth and ashes.

We believe there are nowhere in the Union a more loyal people than the Latter-Day Saints. They know no other country except this. They expect to live and die on this soil.

When the men of the South, who were in rebellion against the Government in 1865, threw down their arms and asked for recognition along the old lines of citizenship, the Government hastened to grant their prayer.

To be at peace with the Government and in harmony with their fellow citizens who were not of their faith, and to share in the confidence of the Government and people, our people have voluntarily put aside something which all their lives they have believed to be a sacred principle.

Have they not the right to ask for such clemency as comes when the claims of both law and justice have been fully liquidated?

As shepherds of a patient and suffering people we ask amnesty for them and pledge our faith and honor for their future.

And your petitioners will ever pray.

WILFORD WOODRUFF.
GEORGE Q. CANNON.
JOSEPH F. SMITH.
LORENZO SNOW.
FRANKLIN D. RICHARDS.
MOSES THATCHER.
FRANCIS M. LYMAN.
H. J. GRANT.
JOHN HENRY SMITH.
JOHN W. TAYLOR.
M. W. MERRILL.
ANTHON H. LUND.
ABRAHAM H. CANNON.

OFFICIAL INDORSEMENTS.

This petition was accompanied by the following letter from Governor Thomas and Chief-Justice Zane. It was also indorsed by members of the Utah Commission and by all the Federal judges of Utah, besides other prominent non-Mormons. The governor and chief justice say:

SALT LAKE CITY, UTAH, *December 21, 1891.*

To the PRESIDENT:

We have the honor to forward herewith a petition signed by the president and most influential members of the Mormon Church. We have no doubt of its sincerity, and no doubt that it is tendered in absolute good faith. The signers include some who were most determined in adhering to their religious faith, while polygamy, either mandatory or permissive, was one of its tenets, and they are men who would not lightly pledge their faith and honor to the Government or subscribe to such a document without having fully resolved to make their words good in letter and spirit.

We warmly recommend a favorable consideration of this petition, and if your excellency shall find it consistent with your public duties to grant the relief asked, we believe it would be graciously received by the Mormon people and tend to evince to them, what has always been asserted, that the Government is beneficent in its intention, only asks obedience to its laws, and desires all law-abiding citizens to enjoy all the benefits and privileges of citizenship. We think it will be better for the future, if the Mormon people should now receive this mark of confidence.

As to the form and scope of a reprieve or pardon, granted in the exercise of your constitutional prerogative, we make no suggestion. You and your law advisers will best know how to grant what you may think should be granted.

We are, very respectfully,

ARTHUR L. THOMAS,
Governor of Utah.
CHARLES S. ZANE,
Chief Justice of Utah Territory.

The governor of Utah in his report for 1892 states as follows (see p. 50):

On December 18, 1891, there was placed in my hands the following petition for amnesty, signed by the president of the Mormon Church and his two councilors and all the apostles of the church in this country at the time.

It seemed to me it was the most important document which the Government had received from the officers of the Mormon Church. It was a distinct, unqualified pledge that for the future the Mormon Church and people would loyally observe and uphold the law. After consultation with Chief-Justice Zane we agreed to transmit the petition to Washington with the letter that follows the petition. Subsequently Judges Miner, Blackburn, and Anderson, of the Territorial supreme court, Secretary Elijah Sells, and Utah Commissioners Godfrey, Saunders, and Robertson joined in the recommendation.

MEMORIAL OF LEGISLATURE.

In January, 1892, the legislative assembly of the Territory of Utah presented the following petition to Congress:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

We, your petitioners, the legislative assembly of the Territory of Utah, respectfully represent:

Utah contains an aggregate wealth of more than $200,000,000. The proceeds of her farms, live stock, mines, and manufactures for the year 1890 amounted to $23,000,000.

She has near a quarter of a million of civilized people, who, in point of intelligence, industry, and all the essential qualities of good citizenship, are up to the standard of any American community. Polygamy, once practiced by a small portion of her people, has yielded to the supremacy of the law, a sense of the evils flowing from it, and of the utter futility of further attempting to maintain an institution obnoxious to general public sentiment.

In the midst of wonderful material progress her people have recently turned their attention to the study of questions of government and legitimate politics, and are espousing the cause of one or the other of the national parties.

These new conditions have come naturally, honestly, and for the future are absolutely secure. A patriotic people are pledged to their preservation. Retrogression, involving as it would dishonor and dire misfortune, is impossible.

Utah, in the feelings of her people, has been lifted from her humiliation and disgrace. To-day she is imbued with the hope and determination to be free—free in the full sense of American constitutional freedom; which means something more than liberty permitted; which consists in civil and political rights absolutely guarantied, assured, and guarded in one's liberties as a man and a citizen—his right to vote, his right to hold office, his equality with all others who are his fellow citizens, all these guarded and protected, and not held at the mercy and discretion of one man, or popular majority, or distant body unadvised as to local needs or interests.

The governor, the secretary, the members of the judiciary (except justices of the peace), the marshal, the public prosecutor and his assistants, the board of commissioners appointing all registration and election officers and controlling the elections, are selected by a distant appointing power, and are utterly unaccountable to the people for the manner in which they perform the duties of their offices.

The governor nominates the auditor of public accounts, treasurer, the governing boards of all public institutions, such as the university, agricultural college, reform school and insane asylum. Thus the people have no voice in the selection of persons to manage their public funds and institutions created and maintained at their expense. The Territorial school commissioner is selected by the supreme court and owes no responsibility to the people.

Clerks selected by the district judges, and the probate judges, appointed by the President and with the advice of the Senate, select the regular panels for jurors. The regular panel is supplemented by persons summoned at the discretion of the United States marshal. The determination of rights of life, liberty, and property rests with tribunals, no part of which owe any accountability to those most vitally concerned in the faithful performance of their duties. The marshal and his deputies are clothed with the most far-reaching authority, under which they may usurp the functions of all the local constabulary and police of the Territory. Even the justices of the peace are shorn of their limited jurisdiction by commissioners appointed by the supreme court and whose jurisdiction is made coextensive with that of such justices.

The will of the representatives of the people in the enactment of needed legislation is liable to be defeated at the caprice of a gubernatorial autocrat clothed with the power of absolute veto.

While the county prosecuting attorneys, elected by the people, are permitted to initiate prosecutions in the inferior courts, no such prosecution can be carried forward to success except according to the pleasure of the district attorney imposed upon the people from abroad.

The most vicious interference with the vestige of our local liberties is the maintenance and action of the Utah Commission, who, in their appointment of registration officers, have often selected corrupt and irresponsible persons. They have filled the registration lists with fictitious names and resorted to other devices by which repeating and other frauds might be successfully perpetrated at elections.

There is no province or dependency, it is believed, of any civilized nation wherein the people are not accorded more of liberty and the rights of man than are possessed by American citizens in Utah.

The situation is intolerable to freemen. The people, through us, their chosen but helpless representatives, demand relief. The officeholders, their patrons, those who fatten upon the degradation and misfortune of our people, all the hordes of the beneficiaries of the present system will resist the appeal. * * *

Your memorialists further ask that, as all essential conditions exist entitling Utah to admission into the Union as a State, and that as soon as your honorable body is satisfied of this fact, a law may at once be enacted permitting her to take the position for which she is so eminently fitted.

And your memorialists will ever pray, etc.]

POLITICAL ACTION.

At the Republican Territorial convention held in the fall of 1892 the following resolutions were adopted:

We recall the policy of the national Republican party that: "The government by Congress of the Territories is based upon necessity only, to the end that they may become States in the Union. Therefore, whenever the condition of the population, material resources, public intelligence, and morality are such as to insure a stable local government therein, the people of the Territory should be permitted, as a right inherent in them, to form for themselves constitutions and State governments, and be admitted into the Union."

We again deny that the Republican party in Utah was organized to unduly hasten statehood. The question of statehood for Utah was not immediately involved in the division of the people of the Territory on national party lines; but, in view of the many changes which have recently transpired in our midst affecting the political interests of the people and believing the conditions of the population, material resources, public intelligence, and morality of this Territory are such as to insure a stable local government therein, we pledge to the people of this Territory that our best efforts shall be exerted to form a State government for Utah and to procure her admission into the Union of States.

And about the same time the Democratic Territorial convention adopted the following resolutions:

Eleventh. We announce our complete confidence in the sincerity of the Mormon people in their abandonment of polygamy, in submission to the laws of the land, and their division on party lines, and our full faith in the pledges of their church leaders that the freedom of the members in political affairs shall not be interfered with by them in any particular. We view the attempts of individuals to make it appear that the Mormon presidency secretly desire and work for the success of any particular party as a slander upon those church officials and a disgrace to those engaged in such despicable trickery.

Twelfth. We emphatically declare that Utah is fully prepared in every way for the honors and responsibilities of a sovereign State, and pledge ourselves to labor unceasingly until this proud position is achieved.

The Republican party in its platform adopted at Minneapolis June 9, 1892, declares as follows:

We favor the admission of the remaining Territories at the earliest possible date, having due regard for the interests of the people of the Territories and of the United States.

And in the national platform of the Democratic party adopted at Chicago on June 22, 1892, in section 18, it is declared:

We favor the early admission of all the Territories having the necessary population and resources to admit them to statehood.

When we remember that Utah has a population of 225,000 people and property of an assessed valuation of over $100,000,000, and of a

real value of not less than $200,000,000, being a population and wealth far exceeding that of any Territory, except South Dakota, that has ever been admitted into the Union as a State, it is and must be evident to all that the only barrier in all the past to the admission of Utah as a State was that of polygamy.

POLYGAMY EXTERMINATED.

While your committee utterly condemn the doctrine of polygamy, and hold that so long as the Mormons constituted the larger part of the population of the Territory of Utah, and personally or as a matter of faith, with or without the practice, believed in the doctrine of polygamy, then it was proper and right for the Federal Government to use all of its vast powers to secure the overthrow and destruction of that practice; yet, in view of the foregoing facts set forth in this report, as well as the concurrent testimony of all parties interested in the welfare of Utah who have appeared before your committee at its hearings upon this subject during the present Congress, as well as the vast amount of testimony submitted to your committee during the Fiftieth Congress upon the same topics, compel your committee to believe without doubt or hesitation that the institution of polygamy as taught by the Mormon Church, whether of faith or of practice, is now absolutely stamped out and exterminated.

CHARACTER OF MORMON PEOPLE.

Your committee, in regard to the general character of the Mormon people for thrift, honesty, morality, sobriety, and virtue, other than their disputed doctrine of polygamy, call attention to the following statements and excerpts of evidence produced to your committee:

The Mormon Church will be 63 years old on the 6th day of April, 1893. Polygamy was not taught or proclaimed in the Book of Mormon. The church long existed without polygamy, and was about 23 years old when the revelation of polygamy was promulgated; two of the three original witnesses to the translation of the Book of Mormon seceded from the church after it had adopted polygamy, and upon that account. The revelation concerning it was first made public in 1852, and published in the book of "Doctrines and Covenants" in 1853. Let us now see what are the general characteristics of the Mormon people under the teachings of their religion.

The Hon. Charles S. Zane is the chief justice of Utah Territory and is a Republican in politics.

Chief-Justice Zane was interviewed recently on the subject of the Teller enabling act for Utah. He said:

My views as to the bill for an enabling act for Utah Territory, introduced into the United States Senate yesterday by Senator Teller, are that I am for the passage of the bill, without any mental reservation. I further state unhesitatingly that it is my opinion that the Republican party of Utah should declare in favor of its passage and insist upon it becoming a law. The Church of Jesus Christ of Latter-Day Saints has taken a stand against the practice of polygamy, and I have no doubt that its members desire to coöperate with the non-Mormons politically for the common good. If Utah becomes a State the Mormons will understand that their material and political interests, their welfare and happiness, are so related to and connected with those of the Gentiles that laws benefiting the latter will be good for the former, and such laws as oppress and injure the one class will be detrimental to the other.

More than 200,000 people in Utah are building its cities, opening and working its mines of incalculable wealth, improving and cultivating vast numbers of productive and valuable farms, and herding their flocks in its valleys and upon its hills. Com-

paratively speaking, these people are temperate, industrious, and honest. They are sufficient in numbers and possess the requisite wealth and intelligence to be admitted into the sisterhood of States. I say let statehood come. The "Mormon" scare has blown over. I am unable to see under statehood the alarming apparitions and hobgoblins conjured up by timidity and fear or by prejudice. The time has come to abandon the enmities, the contention, and prejudice of the past and to lay the foundation of the State of Utah deep and sure upon civil and religious liberty—upon the great principle of equality before the law. We are yet at the foot of the hill, the summit of which will be scaled in distant ages through generations of progress and prosperity. The people of Utah, with the citizens of the United States in other parts of its wide borders, are entitled to national sovereignty, and to those powers delegated by the Constitution of the United States to the Federal Government, and to State sovereignty as to those powers not so delegated. I am for statehood according to the provisions of the Teller bill, so far as they have been reported to me.

Hon. F. H. Dyer was a Democrat and was marshal of the Territory under President Cleveland. In his testimony before your committee in 1892 he gave the following evidence:

Mr. CAINE. What is your experience, as a business man, in regard to the financial standing of the Mormons; how are they regarded in financial circles? What are their notes worth?

Mr. DYER. One hundred cents on the dollar. I want to say that I do not believe that the most radical anti-Mormon will charge that any Mormon was ever derelict in his business obligations. They are always true to those. They regard their word as their bond. It has never been charged to the contrary. In their business relations they are as high-toned and honorable as it is possible for any people to be. They stand on their honor in those matters better than any people I know.

The CHAIRMAN. You say that you lived there sixteen years?

Mr. DYER. Yes, sir; it will be sixteen years next month.

The CHAIRMAN. The question I was about to ask is this: Considering that polygamy is abolished, and that the violation of the law is at an end, are those people not as competent, and as deserving, and as capable of self-government as the people in any other part of the United States?

Mr. DYER. I am pretty well acquainted with the people of Mississippi; I know them as well as I know any people under the sun; and I think the people of Utah are just as loyal to this country as the people of Mississippi, and just as capable of self-government as the people among whom I was raised.

The CHAIRMAN. And you think their professions are to be relied upon just as well? That is, they say they have abandoned the practice, and you think they are sincere?

Mr. DYER. I believe they are sincere. Of course, when this party was first organized—the church party—they were then banded together in defense of the church, and at that time I am satisfied that they would have done most anything which was in the interest of the church; but there has been a leaven at work within that period; the younger element are desirous of being free and have separated from the church party finally, which has resulted in its dissolution.

Governor Stephenson, of the Territory of Idaho, in his official report to the Secretary of the Interior, of date of October 20, 1888, speaking of the Mormons within the Territory of Idaho, says:

Paris has a population of about 1,500, all Mormons, and there is not a saloon or gambling house, or any other place where intoxicating liquor is sold, and this is, I am told, the case in all the towns in Idaho where these people have exclusive control.

In traveling through the Mormon settlements one is at once struck with their improvements and the certainty that they are persevering and industrious; their country towns and villages are thrifty, and their farms well cultivated. Their buildings are generally substantial, and many of them stylish, with all the modern improvements that make a country look progressive and prosperous; and I believe these people are, as a rule, frugal, industrious, and honest.

Bayard Taylor, the celebrated traveler, lecturer, and writer, says:

We must admit that Salt Lake City is one of the most quiet, orderly, and moral places in the world. There are few Gentile liquor saloons, but the Mormons, as a people, are the most temperate of Americans. They are chaste, laborious, and generally cheerful; and what they have accomplished in so short a time, under every circumstance of discouragement, will always form one of the most remarkable chapters in our history. The Territory does not owe a dollar; the people have established manufactories, built roads and bridges, irrigated wastes of sagebrush, colonized the

basin of the interior desert for an extent of 500 miles, and made a nucleus of permanent civilization in the most forbidding part of the continent.

Dr. Miller, of the Omaha Herald, writes as follows:

One feature of the influx into this hitherto quiet, sober, moral, and intelligent Mormon community carries with it its own comment to the thoughtful. To the lasting honor of the Mormon people and system be it said that for twenty-five years such machines of moral infamy as whisky shops, harlotries, faro banks, and all the attendant forms of vice and iniquity were totally unknown in Utah. It can not be denied that the Mormons have achieved victories and conquests over the most gigantic evils that curse our race, and which are to-day the chief banes of every civilized State. Already the hydra-headed monsters of infamy are gaining footholds in Salt Lake City. The gambler and woman of the town are there. The damning fact, so creditable to Mormon morality, is that it is only by the surreptitious evasion and overthrow of Mormon authority that these and kindred curses now invade the beautiful city of Salt Lake.

Elder Miles Grant, the adventist and editor of the World's Crisis, says:

After a careful observation for some days, we came to the settled conclusion that there is less licentiousness in Salt Lake City than in any other one of the same size in the United States, and were we to bring up a family of children in these last days of wickedness we should have less fears of their moral corruption were they in that city than in any other. Swearing, drinking, gambling, idleness, and licentiousness have made but small headway there when compared with other places of equal size. As a body they are a very sincere people and believe the Lord led them there. They are close Bible students, and are very familiar with the Old Testament prophecies, upon which they dwell much in their preaching. Among them are a number of able men, who are capable of entertaining an intelligent audience. They preach without notes and present such thoughts as come to them on the occasion.

Mrs. Emily Pitt Stevens, editor Pioneer, a woman's journal, writes as follows:

Utah wants to assume the prerogative of State sovereignty. She has population and wealth superior to any other Territory, and why should she not enjoy the privilege of self-government? Utah is the wisest and best governed of any large section of people in the United States. In Great Salt Lake City there is less of rowdyism, drunkenness, gambling, idleness, theft, conspiracy against the peace of society, and crime generally than there is in any other city of the same population in the country, if not on the globe.

Chief-Justice White, in charging the grand jury, Salt Lake City, February, 1876, said:

This land they have redeemed from sterility, and occupied its once barren solitudes with cities, villages, cultivated fields, and farmhouses, and made it the habitation of a numerous people, where a beggar is never seen and almshouses are neither needed nor known. These are facts and accomplishments which any candid observer recognizes and every fair mind admits.

POPULATION.

The Territory of Utah possesses in a marked degree those requirements essential to statehood, "the necessary population and resources."

The census of 1890 places the population of Utah at 207,905, which is 15,041 more than the combined population of the States of Montana and Wyoming, and 17,054 in excess of the entire population of the adjoining States, Nevada, Idaho, and Wyoming, and 34,004 more than required under the census of 1890 for a Representative in Congress.

The population has greatly increased since the census was taken. The governor of the Territory in his report to the Secretary of the Interior, dated October 1, 1892, estimates the population at 223,930, being an increase of 16,025 over the census report. This is deemed a very

conservative estimate, and the population to-day may be safely placed at 225,000.

Of the 207,905 inhabitants given by the census report, there were:

Males	110,463
Females	97,442
Excess of males	13,021

The population of the Territory has a steady growth, by immigration from other States and foreign countries, but more especially by births. The census reports give the following facts:

Between the ages of 5 and 17 years	67,465
Native born	62,463
Foreign born	5,002
Between the ages of 18 and 20 years	12,472
Native born	10,519
Foreign born	1,953
Males between ages of 5 and 20 years	40,498
Females between ages of 5 and 20 years	39,439
Total	79,937
Total males of voting age	54,471

The idea often expressed by persons ignorant of the facts, that the people of Utah are mostly foreigners is most successfully refuted by the census reports, which make the following showing:

Total American born	154,841
Total foreign born	53,064

The proportion of foreign born to American born in Utah is less than in the States of North Dakota, Minnesota, Montana, Nevada, Wisconsin, Rhode Island, California, Massachusetts, South Dakota, New York, Michigan, Washington, and the Territory of Arizona.

Only in three States and one Territory has the foreign population decreased more than in Utah during the last census decade.

The percentage of aliens who speak the English language is greater in Utah than in thirty-two States and two Territories.

The population of Utah consists largely of the white element, there being of colored persons, embracing civilized Indians, Chinese, Japanese, and Hawaiians as well as Negroes only 2,006 in the entire Territory; less in proportion to the whites than any of the Pacific States and Territories.

The total number of votes cast at the election for Delegate held in November, 1892, was 34,577, being an increase of 10,812 over the election for members of the legislature held the year previous.

WEALTH AND RESOURCES.

Utah has all the elements of greatness within its borders. Its resources being varied, diversified industries flourish and the future gives promise of wonderful results. The splendid system of irrigation which has been provided largely by community coöperation, renders crops certain, and assures food supplies at cheap rates.

AGRICULTURE.

The agricultural interests of the Territory have always been considered of paramount importance, the greater number of the old settlers being farmers and stock-raisers. The governor in his report for 1891, places the value of agricultural products, including wheat, rye, oats, barley, corn, potatoes, beets, hay, alfalfa, orchard fruits, vinegar, vegetables, cotton, wool, butter, cheese, dried fruits, honey, sorghum, wine, and cider, as reported by the county assessors, at $10,218,527.28.

From the census returns of 1890, we learn that in Utah the total area in cereals in 1889 was 122,878 acres. The production of cereals for the year 1889, embracing barley, buckwheat, Indian corn, oats, rye, and wheat, amounted to 2,395,744 bushels.

IRRIGATION.

The census reports of 1890 furnish the following relative to irrigation in Utah:

In Utah crops were raised by irrigation in the census year ended June 30, 1890, on 263,473 acres, or 411.68 square miles, a trifle over five-tenths of 1 per cent of the entire area of the territory. The aggregate number of farms was 10,757, and of these 9,724, or about nine-tenths, depended upon irrigation, the remaining tenth being either stock ranches or farms in the northern end of the Territory, where the climate is less arid, or situated so high in the mountains that crops can be raised by what is known as "dry farming."

The average size of irrigated farms, or, rather, of irrigated portions of farms, was 27 acres. In this connection the term "irrigated farm" is used to include only the area on which crops were raised by irrigation, the uncultivated portions of such farms not being taken into account. With this understanding, irrigated farms have been classified as follows: 5 irrigated farms of 640 acres or upward; 13 of from 320 to 640 acres; 65 of from 160 to 320 acres. These 83 farms contained an average of 312 acres each, and had a total area of 25,857 acres, or nearly 10 per cent of the entire amount watered in the Territory. The remaining 9,641 farms, under 160 acres in size, comprised over 90 per cent of the total irrigated area, and averaged 25 acres each.

Average value of products per acre, $18.03.

The Territory has about 3,000 miles of irrigating canals.

LIVE STOCK.

The governor's report for 1892 gives the following statistics relative to the stock industry of the Territory:

Number of horses and mules	87,457
Assessed valuation of horses and mules	$3,084,473
Number of cattle	255,675
Assessed valuation of cattle	$3,000,372

The number of sheep in Utah, according to statistics furnished by the United States Agricultural Department for 1892, was 2,800,000, which, at an average valuation of $2, amounts to $5,600,000.

The wool clip for 1892 is estimated at 13,500,000 pounds; valued at 16 cents per pound would amount $2,160,100.

MINING INDUSTRY.

The following tables are from the governor's report for 1892:

Statement showing value and amount of the principal mineral products of Utah from 1879 to 1891, both inclusive.

	Refined lead.		Unrefined lead.	
	Amount.	Value.	Amount.	Value.
	Pounds.		*Pounds.*	
1879	2,301,276	$103,557.42	26,315,359	$592,095.57
1880	2,892,498	144,624.90	25,657,643	641,444.75
1881	2,645,373	145,495.51	38,222,185	955,554.62
1882	8,213,798	410,690.00	52,349,850	1,361,096.00
1883	3,230,547	161,527.00	63,431,964	1,585,799.00
1884	4,840,987	169,434.54	56,023,893	980,418.02
1885	.....	.....	54,318,776	1,222,176.46
1886	208,800	9,667.44	48,456,260	1,405,231.54
1887	2,500,000	111,750.00	45,678,961	1,196,788.77
1888	.....	.....	44,567,157	1,203,313.23
1889	2,359,540	89,662.52	59,421,730	1,378,584.13
1890	5,082,800	203,312.00	63,181,817	1,835,454.51
1891	6,170,000	246,800.00	80,356,528	2,410,095.84
Total	40,445,619	1,796,521.33	657,982,123	16,828,652.54

	Silver.		Gold.		Copper.	
	Amount.	Value.	Amount.	Value.	Amount.	Value.
	Ounces.		*Ounces.*		*Pounds.*	
1879	3,732,247	$4,106,351.70	15,732	$298,938.00	.....	.....
1880	3,663,183	4,029,501.30	8,020	160,400.00	.....	.....
1881	4,958,345	5,503,762.95	6,982	139,640.00	.....	.....
1882	5,435,444	6,114,874.00	9,039	189,780.00	605,880	$75,735.00
1883	4,531,763	4,984,939.00	6,991	139,820.00	.....	.....
1884	5,669,488	6,123,047.04	5,530	110,600.00	63,372	6,337.20
1885	5,972,689	6,221,596.56	8,903	178,060.00	.....	.....
1886	5,918,842	5,860,837.34	10,577	211,540.00	2,467,550	144,453.09
1887	6,161,737	5,976,884.89	11,387	227,740.00	2,491,320	124,566.00
1888	6,178,855	5,787,527.51	13,886	277,720.00	2,886,816	288,681.60
1889	7,147,651	6,656,254.65	24,975	499,500.00	2,060,792	206,079.20
1890	8,165,586	8,492,209.44	33,851	677,020.00	956,708	76,536.64
1891	8,915,223	8,759,206.59	36,160	723,200.00	1,836,060	100,983.30
Total	76,451,053	78,616,993.97	192,033	3,824,928.00	13,308,498	1,022,371.94

Increase over 1890.

	Per cent.
In pounds of unrefined lead	21.19
In pounds of refined lead	21.38
In ounces of silver	9.18
In ounces of gold	6.82
In pounds of copper	90.87

Metal products for 1891.

[Furnished by J. E. Dooley, of Wells, Fargo & Co., Salt Lake City, Utah.]

	Copper.	Lead, refined.	Lead, unrefined.	Silver in bars.	Silver in base bullion and ores.	Gold in bars.	Gold in bullion and ores.
	Pounds.	*Pounds.*	*Pounds.*	*Ounces.*	*Ounces.*	*Ounces.*	*Ounces.*
Germania Lead Works	305,000	6,170,000	3,343,000	580,000	253,100	4,135	1,096
Hanauer Smelter	350,000	.....	11,010,000	.....	851,400	.....	6,611
Mingo Smelting Co	901,630	.....	11,887,965	.....	1,062,774	.....	9,744
Daly Mining Co	.....	.....	2,682,376	850,000	397,551	710	498
Ontario Silver Mining Co	.....	.....	3,856,832	814,485	949,415	.....	918
Silver Reef District	279,430	.....	.....	49,540	2,089	.....	.....
Other mines and placers	.....	.....	.....	5,000	.....	75	.....
Net product bars and base bullion	1,836,060	6,170,000	32,780,173	2,299,025	3,516,329	4,920	18,867
Contents ores shipped	.....	.....	47,576,355	.....	3,099,869	.....	12,373
Total	1,836,060	6,170,000	80,356,528	2,299,025	6,616,198	4,920	31,240

RECAPITULATION.

Copper, 1,836,060 pounds, at 5½ cents per pound	$100,983.30
Refined lead, 6,170,000 pounds, at 4 cents per pound	246,800.00
Unrefined lead, 80,356,528 pounds, at $60 per ton	2,410,695.84
Fine silver, 8,915,223 ounces, at $0.98½ per ounce	8,759,206.59
Fine gold, 36,160 ounces, at $20 per ounce	723,200.00
Total export value	12,240,885.73

Computing the gold and silver at their mint valuation and other metals at their value at the seaboard it would increase the value of the product to $16,198,066.81.

In addition to the metals mentioned, the Territory abounds in iron, coal, sulphur, salt, slate, onyx, marble, granite, sandstone of various grades and shades of color, asphaltum, gilsonite, tripolite, fluocerite, and other minerals and mineral substances.

The capitalization of mining companies organized and incorporated under the laws of the Territory for year ending July 1, 1892, amounted at par value to $66,185,000.

BUILDINGS AND INVESTMENTS.

The following statistics from the governor's report for 1892 shows the value of buildings erected in the cities and towns, and investments in incorporated companies, during the year:

Dwellings erected or under contract	1,296
Value of dwellings erected or under contract	$1,827,384
Business houses erected or contracts for	171
Value of business houses erected or contracted for	$1,190,000

Capitalization of companies organized or incorporated under the laws of the Territory:

Manufacturing companies	$3,213,000
Land, stock, and water companies	3,578,550
Mercantile companies	2,151,500
New banks	200,000
Miscellaneous corporations not previously enumerated	52,116,500

BANKING.

Statement from governor's report for 1892.

Capital invested	$5,910,331.50
Deposits for year ending June 30, 1892	11,913,750.17

HOME INDUSTRIES.

The people of Utah have from the first settlement of the Territory encouraged home industries, and large amounts of capital and labor have been invested in enterprises calculated to develop manufactures, utilize home productions, and furnish employment to her industrious mechanics and laborers.

WOOLEN FACTORIES.

The special report on the wool industry of the United States recently issued by the Bureau of Animal Industry, United States Department of Agriculture, says the wool clip of Utah for 1892 will be found to run close to 13,500,000 pounds, and adds:

Of this amount there are worked up by Utah mills at least 1,000,000 pounds. The largest and most extensive woolen factory in the Territory is the Provo Woolen

Mills, established nearly twenty years ago at Provo. These mills have a capital stock of $300,000, and consume annually 500,000 pounds of Utah wool. They manufacture flannels, linseys, cassimeres, blankets, shawls, yarns, overshirts, underwear, knit hosiery, etc. The next mill of importance is that of the Deseret Woolen Mills Company, at Salt Lake City, which has a capacity of 350,000 to 400,000 pounds of wool per year. These are the two principal woolen mills, yet there are several other smaller ones. It would seem that there is a good opening in the Territory for other woolen factories, for they can evidently take the wool product as it comes from the grower and work it up as cheaply as any of the factories in the East, and have the expense of transportation a long distance in their favor.

SALT INDUSTRY.

The amount of salt produced by evaporation of the waters of the Great Salt Lake for the years 1891 and 1892 was 272,000 tons.

SUGAR FACTORY.

The Utah Sugar Factory for the manufacture of sugar from beets, located at Lehi, 33 miles south of Salt Lake City, is one of the largest in the United States. The expenditure for buildings and machinery amounted to $500,000. The machinery was all of American manufacture. For two years past the factory has turned out beet sugar of the finest quality. The output for the first year's run, 1891, was 1,250,000 pounds, which amount was nearly doubled for the year 1892.

While the manufacturing interests of Utah are varied and extend all over the Territory, for lack of reliable statistics only the most prominent industries are mentioned in this report.

SALT LAKE CITY MANUFACTURES.

A preliminary report on the mechanical and manufacturing industries of Salt Lake City for the year ending May 31, 1890, published by the Census Bureau, gives the following returns:

Number of industries reported	45
Number of establishments reported	149
Capital invested	$2,658,676
Hands employed	1,997
Wages paid	$1,276,219
Cost of materials used	$1,665,877
Miscellaneous expenses	$263
Value of product	$3,864,402

Statistics of manufactures of the other cities of Utah are not yet published.

ASSESSED VALUATION.

The governor's report for 1892 makes the following showing:

Assessed valuation of real and personal property in the Territory	$117,150,899.51
Assessed valuation of property in incorporated cities and towns	87,200,081.53
Indebtedness of said corporations	2,115,678.58

The real value of the property of the Territory as heretofore stated is not less than $200,000,000.

PUBLIC LANDS.

The United States land office in Salt Lake City, the only one in the Territory, reports the following business for the year ending June 30, 1892:

Number of entries	2,208
Acreage	229,666.06
Amount of receipts, including fees	$106,986.07
Total acreage of public lands surveyed up to June 30, 1891	13,188,204.16
Total acreage of public land disposed of and settled upon since opening of the land office in March, 1869, to June, 1891, was	5,906,080.30
Cash receipts	$1,368,224.27

RAILROADS.

The railroad system of Utah embraces the following:

	Miles.
Standard-gauge road	1,169.91
Narrow-gauge road	122.3

Street railroads.

	Miles.
Salt Lake City, electric	58
Ogden, electric	10
Provo, steam motor	6

The cities of Salt Lake, Ogden, Provo, Payson, Park City, and Logan are lighted by electricity.

NATURAL GAS.

Respecting the recent discoveries of natural gas in Salt Lake Valley, the governor in his report says:

For many years past it has been claimed that natural gas could be found beneath the crust of the Salt Lake Basin. Two years ago it was reported that from a well sunk near Brigham City gas had commenced to flow, which burned quite brilliantly and was used for some time. It was also reported that in Ogden City gas had been found, and in Salt Lake some well-borers discovered quite a flow.

Recent developments have confirmed the belief that gas exists, and it now appears that Salt Lake Valley is in the center of a gas belt. During the past year wells have been sunk on the shore of the Great Salt Lake in Davis County; the gas is found at a depth of some 800 feet. The gas is said to be of the best known quality, and it is claimed that some of the wells will yield an average of about 4,000,000 cubic feet in twenty-four hours with a rock pressure of 210 pounds.

It is stated the new American Gas and Fuel Company, who have sunk a number of wells, are now prepared to commence the construction of a gas plant and pipe line into Salt Lake City.

EDUCATION AND SCHOOLS.

Utah has an excellent free school system supported by taxation, and much attention is being given to the cause of education and the schools of the Territory give promise of great development and usefulness.

Speaking of the free schools the governor in his report for 1891 says:

Under the influence of the free-school law, which first went into operation at the beginning of the last school year, September, 1890, there has been a marked increase in the attendance of pupils and a visible improvement in the methods and manner of teaching.

There now seems to be a growing desire throughout the Territory to give these schools the support which they are entitled to. In Salt Lake City the schools have been crowded beyond their capacity, and the board of education has found it difficult to supply the needed room. To remedy this a special election was held, and

the citizens voted to bond the city in the sum of $600,000 for the purpose of building and furnishing school-houses. This great interest in the cause of popular education is an encouraging feature and speaks well for the Territory and its people.

Ogden City has also issued bonds to the amount of $100,000 for the purpose of erecting additional and improved school buildings.

The amount of Territorial and district school-tax levies for the benefit of the common free schools for the year 1891 amounted to $618,685.21.

Besides the common schools, Utah has its due proportion of private, church, and denominational schools.

In his report for 1892 the commissioner of schools for Utah says:

In my last annual report the number of children of school age in the Territory was given at 66,009, of which 53,044 were of Mormon parentage and 12,965 were of non-Mormon parentage. According to the present report, the total number of children of school age in the Territory is 73,359, of which 57,532 are of Mormon parentage and 15,827 of non-Mormon parentage. This shows the increase in one year of the children of school age who are of Mormon parentage to be 0.08.4 per cent and the increase of those of non-Mormon parentage to be 0.22 per cent. The schedule (Exhibit A) of school population shows that there are 10,934 children of school age in the Territory who attend no school. The report for the preceding year (1891) showed 11,059. It will therefore be noticed that, while the number of children of school age is rapidly increasing, the number of those who attend no school is decreasing.

The following table, showing that the total amount invested in the educational establishment of Utah is $1,457,965.52, and the general distribution of the schools throughout the Territory, is from the report of the commissioner of schools for 1892:

Value of school property.

Counties.	Grounds.	Buildings.	Furniture.	Apparatus.	Total.
Beaver	$535.00	$3,700.00	$1,904.25	$948.75	$8,328.00
Boxelder	2,823.00	27,134.67	5,863.57	3,993.80	39,815.04
Cache	13,495.00	66,812.96	9,825.77	2,930.68	85,483.13
Davis	8,882.97	23,922.80	5,707.50	1,873.50	40,485.95
Emery	1,733.75	5,687.17	2,633.61	1,697.55	11,752.08
Garfield	452.00	1,562.00	1,262.80	775.75	4,047.55
Grand	200.00	2,800.00	200.00	150.00	3,350.00
Iron	890.00	5,267.17	1,797.00	583.00	8,537.17
Juab	1,835.00	11,982.74	3,330.08	1,512.00	18,659.82
Kane	250.00	3,250.00	940.60	527.50	4,968.10
Millard	495.00	13,684.60	2,277.65	1,802.25	18,154.05
Morgan	2,100.00	9,300.00	1,495.00	420.00	14,722.00
Piute	275.00	1,225.00	1,635.87	859.50	3,995.37
Rich	650.00	2,900.00	875.00	675.00	5,100.00
Salt Lake (outside of city)	10,104.00	79,593.45	10,088.81	5,135.32	104,921.58
Salt Lake City	248,280.00	120,495.00	26,995.00	3,224.00	398,994.00
San Juan	.....	.....	380.60	.....	380.60
Sanpete	5,189.50	21,281.28	6,564.35	2,960.75	35,995.88
Sevier	4,480.00	4,721.00	3,781.50	1,702.25	14,684.75
Summit	6,210.00	42,441.92	5,625.68	2,123.36	56,400.96
Tooele	1,570.00	6,887.47	2,136.80	4,055.00	11,944.27
Uintah	430.00	3,765.00	1,824.45	446.00	6,481.85
Utah (outside of Provo)	14,521.00	61,107.00	11,411.70	4,694.00	91,733.70
Provo City	10,243.75	42,232.17	5,383.22	953.97	58,813.11
Wasatch	2,588.15	10,900.00	2,354.00	551.00	16,393.15
Washington	835.00	8,765.00	1,556.15	1,308.00	13,069.20
Wayne*	.....	.....	.....	.....	.....
Weber (outside of Ogden)	116,171.00	80,241.00	14,328.00	4,475.50	215,215.71
Ogden City	108,000.00	45,000.00	7,200.00	600.00	160,800.00
Total	563,039.12	704,569.40	139,378.57	50,978.43	1,457,965.52

* New county; included in Piute County.

The University of Utah at Salt Lake City and the Agricultural College at Logan, both Territorial institutions, extend the educational facilities usually afforded by similar establishments in the several States. The attendance at both is large and increasing annually.

Only about 5 per cent of the people of Utah are illiterate, and this fact, considered in connection with the educational facilities of the Territory and the ambitious character of the people, is ample assurance of one of the most essential characteristics of good citizenship. But the aim of education in Utah is not merely to reduce the number of those who are technically denominated illiterates, but to give to the pupils the same training and learning that may be had in the best schools of the East, and therefore the course of study includes not only the usual and ordinary branches, but extends to the higher studies which are taught in the schools of the older communities.

Utah has not been unmindful of the more unfortunate class of its citizens. It has established at Provo a large and well-equipped asylum for the insane, and at Ogden a reform school provided with all the necessary means for educating and instructing in some industrial pursuit such boys and girls as have no parents or homes and those who can not be controlled by home influences.

THE ENABLING ACT.

The bill provides an enabling act for the people of Utah Territory and the terms upon which the constitutional convention will be held and the constitution framed and submitted to the people for their ratification or rejection.

All male citizens over 21 years of age who have resided one year in the Territory are authorized to vote for delegates to form the convention, which shall consist of 107 delegates, who are apportioned upon the following theory of representation: Every county to have at least one delegate, and one additional for every 2,000 of population and for the larger fraction thereof. The election is to be held for delegates on the first Monday in August after the passage of this act. A new registration of voters is to be made under the provisions of the laws of the United States and the Territory, the registration to commence on the first Monday in June after the passage of this act. Delegates to the convention shall meet at the seat of government the third Monday after their election and declare, on behalf of the people of their proposed State, to adopt the Constitution of the United States; whereupon the convention is authorized to form a State constitution and government for the proposed State of Utah. It is required that such constitution shall be republican in form, and make no distinction in civil or political rank on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. They shall provide by ordinance, irrevocable without the consent of the United States, that no inhabitant shall ever be molested in person or property on account of his or her mode of religious worship. The convention shall also provide that the proposed State of Utah shall forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and all lands lying within the limits of the State owned or held by any Indian or any Indian tribes, and until the Indian title shall have been extinguished by the United States, such Indian reservation shall be and remain subject to the disposition of the United States. All Indian lands shall remain under the absolute jurisdiction and control of the United States.

The other provisions usual in an enabling act are required, especially that the debts of the Territory are to be assumed and paid by the State, and provision made for the establishment and maintenance of public schools, to be open to all of the children of the State, free from sectarian influence. The constitution thus formed to be submitted to the people of Utah Territory for ratification or rejection, at an election to be held at a time fixed by ordinance of the convention; when, if a majority of votes cast shall be for the constitution, the governor shall certify the result to the President of the United States. If he shall find the constitution and government of said proposed State to be republican in form, and all the provisions of the enabling act are complied with, it shall be his duty to issue a proclamation announcing the result of the election; whereupon the proposed State of Utah shall be deemed admitted by Congress into the Union upon an equal footing with the original States. Also, that until the next general census, or until otherwise provided by law, Utah shall be entitled to one Representative in the Congress of the United States, who, together with the other State officers, may be elected at the same time the election is held for the adoption of the constitution. Sections 6 to 14, inclusive, relate to the different grants of lands which it is proposed Utah shall receive from the General Government. In view of the mountainous and arid character of the land, and as the larger part of all agricultural lands lying along the streams fit for cultivation without irrigation have either been homesteaded purchased, or secured under the various land acts of the Government, it is provided that sections 2, 16, 32, and 36 in every township of the proposed State are granted to it for the support of common schools, with indemnity for all lands heretofore taken up, to be made in such manner as the legislature may provide, with the approval of the Secretary of the Interior.

GRANTS OF LAND.

One hundred sections of land are granted for the purpose of erecting public buildings at the capital; [illegible] acres for the use and support of an agricultural college; 10 per cent of the proceeds of the sales of public lands within the State subsequent to the admission of the State, and after deducting all expenses, shall be paid to the State for a permanent fund, to be devoted to the common schools, of which the interest only shall be annually expended. All lands granted to Utah for educational purposes are to be leased [illegible]. [illegible] acres of land, also [illegible] are to be reserved and granted for the use of the University of Utah. [illegible] and universities provided for in the act are to be [illegible] exclusive control of the State. [illegible] for the support of [illegible] University. All mineral lands are excepted from the grants under the act. [illegible] for the purpose of [illegible] and overflowed lands and [illegible] as follows:

[illegible] acres for the State capitol; [illegible] acres for the State lunatic asylum; [illegible] acres for the State school of mines; [illegible] acres for the State deaf and dumb asylum; [illegible] acres for the State normal school; [illegible] acres for the State penitentiary; [illegible] acres for the farmers' hospital; [illegible] acres for the United States penitentiary near Salt Lake City, with all lands and appurtenances attached, are granted to the State of Utah. These are special grants of lands exclusively for

the purposes mentioned. It is expressly provided in the act that Utah is not to be entitled to any further grants of lands. All lands granted are to be sold at public sale, at not less than $5 per acre; provided, the State may lease any of the lands for a period of time not more than five years. The State of Utah to comprise one judicial district, for which there shall be one United States district judge, one attorney, one marshal, and a clerk for each of the circuit and district courts, with proper provisions for the transfer of all business from the courts of the Territory to the Federal courts of the State; and also provides for all cases of appeal or writs of error in cases pending now or hereafter in the Territorial courts to the Supreme Court of the United States. Section 19 appropriates $30,000 to the Territory for defraying the expenses of the convention. Section 20 provides that the convention shall, by ordinance, provide for the election of officers for the new State government, including members of the legislature and a Representative in the Fifty-third Congress, all of whom shall remain in abeyance until the State is admitted into the Union. If admitted, the legislature shall assemble and elect two Senators, in the manner prescribed by the laws of the United States; and upon the governor's certificates the Senators and Representative shall be entitled to seats in Congress. Also, that all laws in force in the Territory at the time of its admission into the Union shall be in force in the State until modified or changed, according to its constitution and laws.

SUMMARY AND RECOMMENDATION.

The Mormon Church and its adherents have been subjected for long years to the sharpest and most unkindly criticisms; and heretofore all prayers of the Mormon people for statehood have been denied. Inasmuch as your committee have come to the conclusion that the time for statehood for Utah has at last arrived, it is eminently proper that the characteristics of the Mormon people shall be made known, not only for the information of Congress, but of the nation.

These statements will be repeated from the pulpit and the stump, and around Christian firesides.

Many myriads of people who heretofore have looked upon the Mormons as moral outlaws, it is believed, will change their opinion, and admit that a people showing the characteristics that the Mormons possess, are at last worthy of statehood with full admission to all the rights of American citizenship. Upon this branch of the question, your committee quote from the argument of Judge Jeremiah M. Wilson, of Washington City, made before the Committee on Territories in 1889. Judge Wilson, among other things, said:

Utah is applying for admission and we have therefore to inquire, first, whether the conditions Congress has a right to require exist; and second, if they do, whether there is anything outside of these conditions that will justify a refusal.

Utah has more than 200,000 inhabitants; much above the number required. That is not disputed.

Utah has a public-school system of the highest order of excellence and a university of high repute. Every denomination of the Christian churches have their seminaries of learning, and the result of it is as near universality of education—indeed less illiteracy than is to be found in any other Territory and a majority of the States. This is not disputed.

As a temperate, orderly, law-abiding, industrious, thrifty people, the population of Utah have at least no superiors. This is not disputed.

The ownership of the land, that great source of good conservative citizenship, is more evenly and universally distributed among these people than those of any other Territory in the nation. This is not disputed.

Her manufactures include almos[illegible] useful article. The products of her soil and the yield of her mines aggregat[illegible] at many millions of dollars annually, and she has flocks and herds whose value alone is not less than $30,000,000. None of this is disputed.

Her charitable institutions are abreast of our advanced civilization. This is not disputed.

No people are freer from the vices that seem to be attendant upon humanity and infest compacted populations. This will not be disputed.

Utah is situated midway between the great rivers of the West and the Pacific, and is traversed by lines of transcontinental railways—highways of the continent, and it is no exaggeration to say highways of the world. Her geographical position, together with her vast agricultural, mineral, and manufacturing resources, and the intelligence, energy, and high character of her people make statehood of vast importance, not only to Utah, but to the whole country. This will not be disputed.

In view of the foregoing, political reasons alone can no longer be urged to delay the admission of Utah as a State.

All mouths should be hushed, and all opposition silenced, after the President has amnestied all past offenses; after both political parties in national convention assembled have declared that the time has come for the admission of all the Territories, of which Utah is one; after the Territorial conventions of 1892, wherein both of said great parties declared for statehood, and that the hour is ripe for the admission of Utah; after the legislature of Utah has declared unanimously for statehood; after the governor of the Territory, all of its Territorial officers, and its judiciary, all of whom are Republicans in politics, have declared, that in their opinion polygamy is abolished and at an end; after all the members of the Utah Commission, a commission created expressly to crush and obliterate polygamy have declared their work practically accomplished; after the Mormon Church, through all of its heads and officials, publicly, privately, and in every way possible for mortals to do and proclaim, have with bowed heads, if not in anguish, pledged their faith and honor that nevermore in the future shall polygamy within the Mormon Church be either a doctrine of faith or of practice, there certainly can be but one sentiment, but one opinion among all just-minded legislators in Congress upon the question of duty, and that is to admit Utah as a State into the Federal Union.

Your committee recommend that the bill do pass.

The undersigned, members of the Committee on the Territories, hereby authorize and direct the chairman of said committee to favorably report to the House of Representatives H. R. 352, being a bill to enable the people of Utah to form a constitution and State government and to be admitted into the Union on an equal footing with the original States, with the amendments as indicated in the accompanying draft of the bill hereto annexed and marked Exhibit A.

C. B. KILGORE,
WM. A. B. BRANCH,
MARSHALL ARNOLD,
A. J. HUNTER,
D. D. DONOVAN,
HALDOR E. BOEN,
JNO. AVERY,
JACOB LEFEVER,
G. F. KRIBBS,
ANTONIO JOSEPH,
MARK A. SMITH.

EXHIBIT A.

[Omit the words in brackets and insert the words in italics.]

A BILL to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territory of Utah, as at present described, may become the State of Utah, as hereinafter provided.

SEC. 2 That all male citizens of the United States over the age of twenty-one years, who have resided in said Territory for one year next prior to such election, are hereby authorized to vote for and choose delegates to form a convention in said Territory. Such delegates shall possess the qualifications of such electors; and the aforesaid convention shall consist of one hundred and seven delegates, apportioned among the several counties within the limits of the proposed State as follows: Beaver County, two delegates; Box Elder County, four delegates; Cache County, eight delegates; Davis County, three delegates; Emery County, three delegates; Garfield County, one delegate; Grand County, one delegate; Iron County, one delegate; Juab County, three delegates; Kane County, one delegate; Millard County, two delegates; Morgan County, one delegate; Piute County, one delegate; Rich County, one delegate; Salt Lake County, twenty-nine delegates, thus apportioned, to wit: Salt Lake City, first precinct, four delegates; second precinct, six delegates; third precinct, five delegates; fourth precinct, three delegates; fifth precinct, three delegates; all other precincts in said county, outside of Salt Lake City, eight delegates; San Juan County, one delegate; San Pete County, seven delegates; Sevier County, three delegates; Summit County, four delegates; Tooele County, two delegates; Uintah County, one delegate; Utah County, twelve delegates; Wasatch County, two delegates; Washington County, two delegates; Wayne County, one delegate, and Weber County, eleven delegates; and the governor of said Territory shall, within twenty days after the passage of this act, by proclamation, order an election of the delegates aforesaid in said Territory, to be held on such day as he may in such proclamation designate, not less than sixty nor more than ninety days after the issuing thereof. The board of commissioners known as the Utah commission is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and said Territory, except that the oath required for registration under said laws shall be so modified as to test the qualifications of the electors as prescribed in this act; such new registration to be made as nearly conformable with the provisions of such laws as may be; and such election for delegates shall be conducted, the returns made, the result ascertained, and the certificate of persons elected to such convention issued in the same manner as is prescribed by the laws of said Territory regulating elections therein of members of the legislature. Persons possessing the qualifications entitling them to vote for delegates under this act shall be entitled to vote on the ratification or rejection of the constitution, under such rules or regulations as said convention may prescribe, not in conflict with this act.

SEC. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Territory on the third Monday after their election, and, after organization, shall declare on behalf of the people of said proposed State that they adopt the Constitution of the United States, whereupon the said convention shall be, and is hereby, authorized to form a constitution and State government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and of the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof; and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State

shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory, *under authority of the legislative assembly thereof*, shall be assumed and paid by said State.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control.

SEC. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this act, the convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for its ratification or rejection, at an election to be held at a time fixed in said ordinance, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The return of said election shall be made to the said Utah Commission, who shall cause the same to be canvassed, and if a majority of the votes cast on that question shall be for the constitution shall certify the result to the President of the United States, together with a statement of the votes cast thereon, and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of said election, and thereupon the proposed State of Utah shall be deemed admitted by Congress into the Union, under and by virtue of this act, on an equal footing with the original States, from and after the date of said proclamation.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative in the Fifty-third Congress, together with the governor and other officers provided for in said constitution, may be elected on the same day of the election for the adoption of the constitution; and until said State officers are elected and qualified under the provisions of the constitution, and the State is admitted into the Union, the Territorial officers shall continue to discharge the duties of the respective offices in said Territory.

SEC. 6. That upon the admission of said State into the Union sections numbered two, sixteen, thirty-two, and thirty-six in every township of said proposed State, and where such sections or any parts thereof have been sold or otherwise disposed of by or under the authority of any act of Congress other lands equivalent thereto, in legal subdivisions of not less than one quarter section and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the legislature may provide, with the approval of the Secretary of the Interior: *Provided*, That the second, sixteenth, thirty-second, and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 7. That upon the admission of said State into the Union, in accordance with the provisions of this act, one hundred sections of the unappropriated lands within said State, to be selected and located in legal subdivisions as provided in section six of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the capital of said State, when permanently located, for legislative, executive, and judicial purposes.

SEC. 8. That lands to the extent of two townships in quantity, authorized by the third section of the act of February twenty-one, eighteen hundred and fifty-five, to be reserved for the establishment of the University of Utah, are hereby granted to the State of Utah for university purposes, to be held and used in accordance with the provisions of this section; and any portions of said lands that may not have been selected by said Territory may be selected by said State. That in addition to the above, [two] *one* hundred *and ten* thousand acres of land, to be selected and

located as provided in the foregoing section of this act, and including all saline lands in said State, are hereby granted to said State, for the use of the said university; and *ninety thousand acres for the use of* an agricultural college [which shall be connected therewith] *therein.* That the proceeds of the sale of said lands, or any portion thereof, shall constitute [a] permanent [fund] *funds,* to be safely invested and held by said State; and the income thereof to be used exclusively for the purposes of such university and agricultural college *respectively.*

SEC. 9. That ten per centum of the proceeds of the sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 10. That the proceeds of lands herein granted for educational purposes, except as hereinafter otherwise provided, shall constitute a permanent school fund, the interest of which only shall be expended for the support of said schools, and such land shall not be subject to preëmption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be surveyed for school purposes only.

SEC. 11. The schools, colleges, and university provided for in this act shall forever remain under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes, or of the income thereof, shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 12. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand by the State of Utah under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to said State of Utah, the following grants of land are hereby made to said State for the purposes indicated, namely:

For the establishment of permanent water reservoirs for irrigating purposes, five hundred thousand acres; for the establishment and maintenance of an insane asylum, one hundred thousand acres; for the establishment and maintenance of a school of mines in connection with the university, one hundred thousand acres; for the establishment and maintenence of a deaf and dumb asylum, one hundred thousand acres; for the establishment and maintenance of a reform school, one hundred thousand acres; for establishment and maintenance of State normal schools, one hundred thousand acres; for the establishment and maintenance of an institution for the blind, one hundred thousand acres; for a miners' hospital for disabled miners, fifty thousand acres. The United States penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah.

The said State of Utah shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act; and the lands granted by this section shall be held appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislature of the State may provide.

SEC. 13. That all land granted in quantity or as indemnity by this act shall be selected under the direction of the Secretary of the Interior, from the unappropriated public lands of the United States within the limits of said State of Utah.

SEC. 14. That the State of Utah shall constitute one judicial district, which shall be called the district of Utah, and the circuit and district courts thereof shall be held at the capital of this State for the time being. The judge of said district shall receive a yearly salary of five thousand dollars, payable monthly, and shall reside in his district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The regular terms of said courts shall be held at the place aforesaid on the first Monday in April and the first Monday in November of each year. For judicial purposes, the district of Utah shall be attached to the eighth judicial circuit, and only one grand jury and one petit jury shall be summoned in both of said courts.

SEC. 15. That the circuit and district courts for the district of Utah and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 16. That the marshal, district attorney, and clerks of the circuit and district courts of the said district of Utah, and all other officers and other persons perform-

ing duty in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the same fees and compensation allowed by law to other similar officers and persons performing similar duties.

SEC. 17. That the convention herein provided for shall have the power to provide, by ordinance, for the transfer of actions, cases, proceedings, and matters pending in the supreme or district courts of the Territory of Utah at the time of the admission of the said State into the Union, to such courts as shall be established under the constitution to be thus formed, or to the circuit or district court of the United States for the district of Utah; and no indictment, action, or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory, mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 18. That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to said Territory for defraying the expenses of said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature.

SEC. 19. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and Representatives in the Fifty-third Congress, at the time for the election for the ratification or rejection of the constitution; but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. In case the constitution of said States shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representatives in the manner required by law; and when such State is admitted into the Union, as provided in this act, the Senators and Representatives shall be entitled to be admitted to seats in Congress, and to all rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the State government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the constitution of the State; and the laws of the United States not locally inapplicable shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

ADMISSION OF UTAH.

NOVEMBER 2, 1893.—Ordered to be printed.

Mr. WHEELER, from the Committee on the Territories, submitted the following

VIEWS OF THE MINORITY

[Upon H. R. 352, to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States.]

The undersigned are deeply impressed with the importance of very speedily enacting a law for the admission of the Territory of Utah as a State. This Territory possesses every requirement essential to statehood. Its population is many times the average population of Territories heretofore admitted as States, and its resources are already far greater than some of the States of the Union.

The census of 1890 places the population of Utah at 207,905, which is 15,041 more than the combined population of the States of Montana and Wyoming and 17,054 in excess of the entire population of the adjoining States, Nevada, Idaho, and Wyoming, and 34,004 more than required under the census of 1890 for a Representative in Congress.

The population has greatly increased since the census was taken. The governor of the Territory in his report to the Secretary of the Interior, dated October 1, 1892, estimates the population at 223,930, being an increase of 16,025 over the census report. This is deemed a very conservative estimate, and the population to-day may be safely placed at 240,000, and many estimate its present population as high as 250,000.

Of the 207,905 inhabitants given by the census report there were:

Males	110,463
Females	97,442
Excess of males	13,021

The population of the Territory has a steady growth by immigration from other States and foreign countries, but more especially by births. The census reports give the following facts:

Between the ages of 5 and 17 years	67,465
Native born	62,463
Foreign born	5,002
Between the ages of 18 and 20 years	12,472
Native born	10,519
Foreign born	1,953

Males between ages of 5 and 20 years	40,498
Females between ages of 5 and 20 years	39,439
Total	79,937
Total males of voting age	54,471

The idea often expressed by persons ignorant of the facts, that the people of Utah are mostly foreigners, is most successfully refuted by the census reports, which make the following showing:

Total American born	154,841
Total foreign born	53,064

The proportion of foreign born to American born in Utah is less than in the States of North Dakota, Minnesota, Montana, Nevada, Wisconsin, Rhode Island, California, Massachusetts, South Dakota, New York, Michigan, Washington, and the Territory of Arizona.

Only in three States and one Territory has the foreign population decreased more than in Utah during the census decade.

The percentage of aliens who speak the English language is greater in Utah than in thirty-two States and two Territories.

The population of Utah consists largely of the white element, there being of colored persons, embracing civilized Indians, Chinese, Japanese, and Hawaiians, as well as negroes, only 2,006 in the entire Territory; less in proportion to the whites than any of the Pacific States and Territories.

The total number of votes cast at the election for Delegate held in November, 1892, was 34,577, being an increase of 10,812 over the election for members of the legislature held the year previous.

The only possible objection that can be raised to the admission of this Territory as a State is the fear that when clothed with the powers incident to statehood laws may be enacted which would legitimatize, or at least tolerate, what all civilization now denominates as the crime of polygamy. The bill, which is reported pursuant to the written authority of the majority of the committee, says:

> The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—
>
> That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship.

It appears to the minority of the committee that the above expression in the bill might be construed not only as not prohibiting polygamy, but possibly as tolerating if not encouraging it, and the minority do not think that the sense of the United States will tolerate the idea of Utah being admitted to the sisterhood of States under such a constitution as is proposed by this bill. The minority of the committee as individuals fully concur with the majority that the people of Utah are sincere in their determination to discountenance polygamy, and that being true there can be no harm in that determination being expressed in the fundamental law of that Territory when it becomes a State. As far as the minority can learn, the Delegate from that Territory is the only person who has ever requested that the Territory be admitted without a pledge on the part of the people that polygamy will cease.

In 1887 a constitutional convention was held in the city of Salt Lake. The convention framed a constitution which in distinct and emphatic language declared against bigamy and polygamy, and provided suit-

able punishment for committing that offense. These provisions are found in section 12 of the constitution, which is follows:

SEC. 12. Bigamy and polygamy being considered incompatible with "a republican form of government," each of them is hereby forbidden and declared a misdemeanor. Any person who shall violate this section shall, on conviction thereof, be punished by a fine of not more than $1,000 and imprisonment for a term not less than six months nor more than three years, in the discretion of the court. This section shall be construed as operative without the aid of legislation, and the offenses prohibited by this section shall not be barred by any statute of limitation within three years after the commission of the offense; nor shall the power of pardon extend thereto until such pardon shall be approved by the President of the United States.

By another section of that constitution the foregoing provision was made irrevocable.

With these facts before the committee, one of the minority prepared a bill for the admission of Utah as a State. Section 3 of said bill contained the following provision:

The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship. But said constitution shall prohibit polygamy or dual marriage, and polygamy or dual marriage shall be declared by such a constitution to be felony and punishable by any of the courts of said State of competent jurisdiction by inflicting a fine of not less than one thousand dollars or more than five thousand dollars, and confinement in the penitentiary for not less than one year or more than five years.

This bill engaged the best attention of the committee for six weeks, was read and considered section by section, and, with the exception of some important parts which were not reached, the bill, or most of it, was adopted by the committee. The Delegate from Utah was invited to be present, and amendments were made at his suggestion, and, as the committee understood, he was perfectly satisfied with all parts of the bill except that part which prohibited polygamy.

RESOURCES OF UTAH.

Utah has all the elements of greatness within its borders. Its resources being varied, diversified industries flourish and the future gives promise of wonderful results. The splendid system of irrigation which has been provided, largely by community coöperation, renders crops certain, and assures food supplies at cheap rates.

AGRICULTURAL RESOURCES.

The agricultural interests of the Territory have always been considered of paramount importance, the greater number of the old settlers being farmers and stock-raisers. The governor in his report for 1891 places the value of agricultural products, including wheat, rye, oats, barley, corn, potatoes, beets, hay, alfalfa, orchard fruits, vinegar, vegetables, cotton, wool, butter, cheese, dried fruits, honey, sorghum, wine, and cider, as reported by the county assessors, at $10,218,527.28.

From the census returns of 1890 we learn that in Utah the total area in cereals in 1889 was 122,878 acres. The production of cereals for the year 1889, embracing barley, buckwheat, Indian corn, oats, rye, and wheat, amounted to 2,395,744 bushels.

PROGRESS IN IRRIGATION.

The census reports of 1890 furnish the following relative to irrigation in Utah:

In Utah crops were raised by irrigation in the census year ended June 30, 1890, on 263,473 acres, or 411.68 square miles, a trifle over five-tenths of 1 per cent of the entire area of the Territory. The aggregate number of farms was 10,757, and of these 9,724, or about nine-tenths, depended upon irrigation, the remaining tenth being either stock ranches or farms in the northern end of the Territory, where the climate is less arid, or situated so high in the mountains that crops can be raised by what is known as "dry farming."

The average size of irrigated farms, or rather of irrigated portions of farms, was 27 acres. In this connection the term "irrigated farm" is used to include only the area on which crops were raised by irrigation, the uncultivated portions of such farms not being taken into account. With this understanding, irrigated farms have been classified as follows: 5 irrigated farms of 640 acres or upward; 13 of from 320 to 640 acres; 65 of from 160 to 320 acres. These 83 farms contained an average of 312 acres each, and had a total area of 25,857 acres, or nearly 10 per cent of the entire amount watered in the Territory. The remaining 9,641 farms, under 160 acres in size, comprised over 90 per cent of the total irrigated area, and averaged 25 acres each.

Average value of products per acre, $18.03.

The Territory has about 3,000 miles of irrigating canals.

HORSES, MULES, CATTLE, AND SHEEP.

The governor's report for 1892 gives the following statistics relative to the stock industry of the Territory:

Number of horses and mules	87,457
Assessed valuation of horses and mules	$3,684,173
Number of cattle	255,675
Assessed valuation of cattle	$3,000,372

The number of sheep in Utah, according to statistics furnished by the United States Agricultural Department for 1892, was 2,800,000, which, at an average valuation of $2, amounts to $5,600,000.

The wool clip for 1892 is estimated at 13,500,000 pounds; valued at 16 cents per pound would amount $2,160,100.

GOLD, SILVER, LEAD, AND COPPER.

The following tables are from the governor's report for 1892:

Statement showing value and amount of the principal mineral products of Utah from 1879 to 1891, both inclusive.

	Refined lead.		Unrefined lead.	
	Amount.	Value.	Amount.	Value.
	Pounds.		*Pounds.*	
1879	2,391,276	$103,557.42	26,315,359	$592,095.57
1880	2,892,498	144,624.90	25,657,643	641,444.75
1881	2,645,373	145,495.51	38,222,185	955,554.62
1882	8,213,798	410,690.00	52,349,850	1,361,096.00
1883	3,230,547	161,527.00	63,431,964	1,585,799.00
1884	4,840,987	169,434.54	56,023,893	989,418.02
1885			54,318,776	1,222,176.46
1886	208,800	9,667.44	48,456,260	1,405,231.54
1887	2,500,000	111,750.00	45,678,961	1,196,788.77
1888			44,567,157	1,203,313.23
1889	2,359,540	89,662.52	59,421,730	1,378,584.13
1890	5,082,800	203,312.00	63,181,817	1,895,454.51
1891	6,170,000	246,800.00	80,356,528	2,410,695.84
Total	40,445,619	1,796,521.33	657,982,123	16,828,652.54

Statement showing value and amount of the principal mineral products of Utah from 1879 to 1891, both inclusive—Continued.

	Silver.		Gold.		Copper.	
	Amount.	Value.	Amount.	Value.	Amount.	Value.
	Ounces.		*Ounces.*		*Pounds.*	
1879	3,732,247	$4,106,351.70	15,732	$298,908.00	.....	.....
1880	3,663,183	4,029,501.30	8,020	160,400.00	.....	.....
1881	4,958,345	5,503,762.95	6,982	139,640.00	.....	.....
1882	5,435,444	6,114,874.00	9,039	180,780.00	605,880	$75,735.00
1883	4,531,763	4,984,939.00	6,991	139,820.00	.....	.....
1884	5,609,488	6,123,047.04	5,530	110,600.00	63,372	6,337.20
1885	5,972,689	6,221,596.56	8,903	178,060.00	.....	.....
1886	5,918,842	5,860,837.34	10,577	211,540.00	2,407,550	144,453.00
1887	6,161,737	5,976,884.89	11,387	227,740.00	2,491,320	124,566.00
1888	6,178,855	5,787,527.51	13,886	277,720.00	2,886,816	288,681.60
1889	7,147,651	6,656,254.65	24,975	499,500.00	2,060,792	206,079.20
1890	8,165,586	8,492,209.44	33,851	677,020.00	956,708	76,536.64
1891	8,915,223	8,759,206.59	36,160	723,200.00	1,836,060	100,983.30
Total	76,451,053	78,616,993.97	192,033	3,824,928.00	13,308,498	1,023,371.94

Increase over 1890.

	Per cent.
In pounds of unrefined lead	21.18
In pounds of refined lead	21.38
In ounces of silver	9.18
In ounces of gold	6.82
In pounds of copper	90.87

Metal products for 1891.

[Furnished by J. E. Dooley, of Wells, Fargo & Co., Salt Lake City, Utah.]

	Copper.	Lead, refined.	Lead, unrefined.	Silver in bars.	Silver in base bullion and ores.	Gold in bars.	Gold in bullion and ores.
	Pounds.	*Pounds.*	*Pounds.*	*Ounces.*	*Ounces.*	*Ounces.*	*Ounces.*
Germania Lead Works	305,000	6,170,000	3,343,000	580,000	253,100	4,135	1,096
Hanauer Smelter	350,000	.....	11,010,000	.....	851,400	.....	6,611
Mingo Smelting Co	901,630	.....	11,887,965	.....	1,062,774	.....	9,744
Daly Mining Co	.....	.....	2,682,376	850,000	397,551	710	498
Ontario Silver Mining Co	.....	.....	3,856,832	814,485	949,415	.....	918
Silver Reef District	279,430	.....	.....	49,540	2,080	.....	.....
Other mines and placers	.....	.....	.....	5,000	.....	75	.....
Net product bars and base bullion	1,836,060	6,170,000	32,780,173	2,299,025	3,516,329	4,920	18,867
Contents ores shipped	.....	.....	47,576,355	.....	3,099,869	.....	12,373
Total	1,836,060	6,170,000	80,356,528	2,299,025	6,616,198	4,920	31,240

RECAPITULATION.

Copper, 1,836,060 pounds, at 5½ cents per pound	$100,983.30
Refined lead, 6,170,000 pounds, at 4 cents per pound	246,800.00
Unrefined lead, 80,356,528 pounds, at $60 per ton	2,410,695.84
Fine silver, 8,915,223 ounces, at $0.98½ per ounce	8,759,206.59
Fine gold, 36,160 ounces, at $20 per ounce	723,200.00
Total export value	12,240,885.73

Computing the gold and silver at their mint valuation and other metals at their value at the seaboard it would increase the value of the product to $16,198,066.81.

In addition to the metals mentioned, the Territory abounds in iron, coal, sulphur, salt, slate, onyx, marble, granite, sandstone of various grades and shades of color, asphaltum, gilsonite, tripolite, fluocerite, and other minerals and mineral substances.

The capitalization of mining companies organized and incorporated under the laws of the Territory for year ending July 1, 1892, amounted at par value to $66,185,000.

PROGRESS IN IRRIGATION.

The census reports of 1890 furnish the following relative to irrigation in Utah:

In Utah crops were raised by irrigation in the census year ended June 30, 1890, on 263,473 acres, or 411.68 square miles, a trifle over five-tenths of 1 per cent of the entire area of the Territory. The aggregate number of farms was 10,757, and of these 9,724, or about nine-tenths, depended upon irrigation, the remaining tenth being either stock ranches or farms in the northern end of the Territory, where the climate is less arid, or situated so high in the mountains that crops can be raised by what is known as "dry farming."

The average size of irrigated farms, or rather of irrigated portions of farms, was 27 acres. In this connection the term "irrigated farm" is used to include only the area on which crops were raised by irrigation, the uncultivated portions of such farms not being taken into account. With this understanding, irrigated farms have been classified as follows: 5 irrigated farms of 640 acres or upward; 13 of from 320 to 640 acres; 65 of from 160 to 320 acres. These 83 farms contained an average of 312 acres each, and had a total area of 25,857 acres, or nearly 10 per cent of the entire amount watered in the Territory. The remaining 9,641 farms, under 160 acres in size, comprised over 90 per cent of the total irrigated area, and averaged 25 acres each.

Average value of products per acre, $18.03.

The Territory has about 3,000 miles of irrigating canals.

HORSES, MULES, CATTLE, AND SHEEP.

The governor's report for 1892 gives the following statistics relative to the stock industry of the Territory:

Number of horses and mules	87,457
Assessed valuation of horses and mules	$3,084,473
Number of cattle	255,675
Assessed valuation of cattle	$3,000,372

The number of sheep in Utah, according to statistics furnished by the United States Agricultural Department for 1892, was 2,800,000, which, at an average valuation of $2, amounts to $5,600,000.

The wool clip for 1892 is estimated at 13,500,000 pounds; valued at 16 cents per pound would amount $2,160,100.

GOLD, SILVER, LEAD, AND COPPER.

The following tables are from the governor's report for 1892:

Statement showing value and amount of the principal mineral products of Utah from 1879 to 1891, both inclusive.

	Refined lead.		Unrefined lead.	
	Amount.	Value.	Amount.	Value.
	Pounds.		*Pounds.*	
1879	2,391,276	$103,557.42	26,315,359	$592,095.57
1880	2,892,498	144,624.90	25,657,643	641,444.75
1881	2,645,373	145,495.51	38,222,185	955,554.62
1882	8,213,798	410,690.00	52,349,850	1,361,096.00
1883	3,220,547	161,527.00	63,431,964	1,585,799.00
1884	4,849,987	169,434.54	56,023,893	989,418.02
1885	.....	.....	54,318,776	1,222,176.46
1886	208,800	9,667.44	48,456,260	1,405,231.54
1887	2,500,000	111,750.00	45,678,961	1,196,788.77
1888	.....	.....	44,567,157	1,203,313.23
1889	2,359,540	89,662.52	59,421,730	1,378,584.13
1890	5,082,800	203,312.00	63,181,817	1,895,454.51
1891	6,170,000	246,800.00	80,356,528	2,410,695.84
Total	40,445,619	1,796,521.33	657,982,123	16,828,652.54

Statement showing value and amount of the principal mineral products of Utah from 1879 to 1891, both inclusive—Continued.

	Silver.		Gold.		Copper.	
	Amount.	Value.	Amount.	Value.	Amount.	Value.
	Ounces.		*Ounces.*		*Pounds.*	
1879	3,732,247	$4,106,351.70	15,732	$298,908.00	.....	.....
1880	3,663,183	4,029,501.30	8,020	160,400.00	.....	.....
1881	4,958,345	5,503,762.95	6,982	139,640.00	.....	.....
1882	5,435,444	6,114,874.00	9,039	180,780.00	605,880	$75,735.00
1883	4,531,763	4,984,949.00	6,991	139,820.00	.....	.....
1884	5,669,488	6,123,047.04	5,530	110,600.00	63,372	6,337.20
1885	5,972,689	6,221,596.56	8,903	178,060.00	.....	.....
1886	5,918,842	5,860,837.34	10,577	211,540.00	2,407,550	144,453.00
1887	6,161,737	5,976,884.89	11,387	227,740.00	2,491,320	124,566.00
1888	6,178,855	5,787,527.51	13,886	277,720.00	2,886,816	288,681.60
1889	7,147,651	6,656,254.65	24,975	499,500.00	2,060,792	206,079.20
1890	8,165,586	8,492,209.44	33,851	677,020.00	956,708	76,536.64
1891	8,915,223	8,759,206.59	36,160	723,200.00	1,836,060	100,983.30
Total	76,451,053	78,616,993.97	192,033	3,824,928.00	13,308,498	1,023,371.94

Increase over 1890.

	Per cent.
In pounds of unrefined lead	21.18
In pounds of refined lead	21.38
In ounces of silver	9.18
In ounces of gold	6.82
In pounds of copper	90.87

Metal products for 1891.

[Furnished by J. E. Dooley, of Wells, Fargo & Co., Salt Lake City, Utah.]

	Copper.	Lead, refined.	Lead, unrefined.	Silver in bars.	Silver in base bullion and ores.	Gold in bars.	Gold in bullion and ores.
	Pounds.	*Pounds.*	*Pounds.*	*Ounces.*	*Ounces.*	*Ounces.*	*Ounces.*
Germania Lead Works	305,000	6,170,000	3,343,000	580,000	253,100	4,135	1,096
Hanauer Smelter	350,000	.....	11,010,000	.....	851,400	.....	6,611
Mingo Smelting Co	901,630	.....	11,887,965	.....	1,062,774	.....	9,744
Daly Mining Co	.....	.....	2,682,376	850,000	397,551	710	498
Ontario Silver Mining Co	.....	.....	3,856,832	814,485	949,415	.....	918
Silver Reef District	279,430	.....	.....	49,540	2,089	.....	.....
Other mines and placers	.....	.....	.....	5,000	.....	75	.....
Net product bars and base bullion	1,836,060	6,170,000	32,780,173	2,299,025	3,516,329	4,920	18,867
Contents ores shipped	.....	.....	47,576,355	.....	3,099,869	.....	12,373
Total	1,836,060	6,170,000	80,356,528	2,299,025	6,616,198	4,920	31,240

RECAPITULATION.

Copper, 1,836,060 pounds, at 5½ cents per pound	$100,983.30
Refined lead, 6,170,000 pounds, at 4 cents per pound	246,800.00
Unrefined lead, 80,356,528 pounds, at $60 per ton	2,410,695.84
Fine silver, 8,915,223 ounces, at $0.98¼ per ounce	8,759,206.59
Fine gold, 36,160 ounces, at $20 per ounce	723,200.00
Total export value	12,240,885.73

Computing the gold and silver at their mint valuation and other metals at their value at the seaboard it would increase the value of the product to $16,198,066.81.

In addition to the metals mentioned, the Territory abounds in iron, coal, sulphur, salt, slate, onyx, marble, granite, sandstone of various grades and shades of color, asphaltum, gilsonite, tripolite, fluocerite, and other minerals and mineral substances.

The capitalization of mining companies organized and incorporated under the laws of the Territory for year ending July 1, 1892, amounted at par value to $66,185,000.

MATERIAL DEVELOPMENT.

The following statistics from the governor's report for 1892 shows the value of buildings erected in the cities and towns, and investments in incorporated companies, during the year:

Dwellings erected or under contract	1,296
Value of dwellings erected or under contract	$1,827,384
Business houses erected or contracts for	171
Value of business houses erected or contracted for	$1,190,000

Capitalization of companies organized or incorporated under the laws of the Territory.

Manufacturing companies	$3,213,000
Land, stock, and water companies	3,578,550
Mercantile companies	2,151,500
New banks	200,000
Miscellaneous corporations not previously enumerated	52,116,500

BANKS AND FINANCIAL INSTITUTIONS.

Statement from governor's report for 1892.

Capital invested	$5,910,331.50
Deposits for year ending June 30, 1892	11,913,750.17

OTHER INDUSTRIES.

The people of Utah have from the first settlement of the Territory encouraged home industries, and large amounts of capital and labor have been invested in enterprises calculated to develop manufactures, utilize home productions, and furnish employment to her industrious mechanics and laborers.

WOOL INDUSTRY.

The special report on the wool industry of the United States recently issued by the Bureau of Animal Industry, United States Department of Agriculture, says the wool clip of Utah for 1892 will be found to run close to 13,500,000 pounds, and adds:

Of this amount there are worked up by Utah mills at least 1,000,000 pounds. The largest and most extensive woolen factory in the Territory is the Provo Woolen Mills, established nearly twenty years ago, at Provo. These mills have a capital stock of $300,000, and consume annually 500,000 pounds of Utah wool. They manufacture flannels, linseys, cassimeres, blankets, shawls, yarns, overshirts, underwear, knit hosiery, etc. The next mill of importance is that of the Deseret Woolen Mills Company, at Salt Lake City, which has a capacity of 350,000 to 400,000 pounds of wool per year. These are the two principal woolen mills, yet there are several other smaller ones. It would seem that there is a good opening in the Territory for other woolen factories, for they can evidently take the wool product as it comes from the grower and work it up as cheaply as any of the factories in the East, and have the expense of transportation a long distance in their favor.

SALT WORKS.

The amount of salt produced by evaporation of the waters of the Great Salt Lake for the years 1891 and 1892 was 272,000 tons.

SUGAR REFINERY.

The Utah Sugar refinery for the manufacture of sugar from beets, located at Lehi, 33 miles south of Salt Lake City, is one of the largest in the United States. The expenditure for buildings and machinery

amounted to $500,000. The machinery was all of American manufacture. For two years past the factory has turned out beet sugar of the finest quality. The output for the first year's run, 1891, was 1,250,000 pounds, which amount was nearly doubled for the year 1892.

While the manufacturing interests of Utah are varied and extend all over the Territory, for lack of reliable statistics only the most prominent industries are mentioned in this report.

MANUFACTORIES IN SALT LAKE CITY.

A preliminary report on the mechanical and manufacturing industries of Salt Lake City for the year ending May 31, 1890, published by the Census Bureau, gives the following returns:

Number of industries reported	45
Number of establishments reported	149
Capital invested	$2,658,676
Hands employed	1,997
Wages paid	$1,276.219
Cost of materials used	$1,665,877
Miscellaneous expenses	$263
Value of product	$3,864,402

Statistics of manufactures of the other cities of Utah are not yet published.

VALUATION OF PROPERTY IN UTAH.

The governor's report for 1892 makes the following showing:

Assessed valuation of real and personal property in the Territory	$117,150,899.51
Assessed valuation of property in incorporated cities and towns	$87,200,081.53
Indebtedness of said corporations	$2,115,678.58

The real value of the property of the Territory as heretofore stated is not less than $200,000,000.

PUBLIC LANDS IN UTAH.

The United States land office in Salt Lake City, the only one in the Territory, reports the following business for the year ending June 30, 1892:

Number of entries	2,208
Acreage	229,666.06
Amount of receipts, including fees	$106,986.07
Total acreage of public lands surveyed up to June 30, 1891	13,188,204.16
Total acreage of public land disposed of and settled upon since opening of the land office in March, 1869, to June, 1891, was	5,906,080.30
Cash receipts	$1,368,224.27

UTAH'S RAILROADS.

The railroad system of Utah embraces the following:

	Miles.
Standard-gauge road	1,169.91
Narrow-gauge road	122.3

Street railroads.

	Miles.
Salt Lake City, electric	58
Ogden, electric	10
Provo, steam motor	6

The cities of Salt Lake, Ogden, Provo, Payson, Park City, and Logan are lighted by electricity.

NATURAL GAS IN UTAH.

Respecting the recent discoveries of natural gas in Salt Lake Valley, the governor in his report says:

For many years past it has been claimed that natural gas could be found beneath the crust of the Salt Lake Basin. Two years ago it was reported that from a well sunk near Brigham City gas had commenced to flow, which burned quite brilliantly and was used for some time. It was also reported that in Ogden City gas had been found, and in Salt Lake some well-borers discovered quite a flow.

Recent developments have confirmed the belief that gas exists, and it now appears that Salt Lake Valley is in the center of a gas belt. During the past year wells have been sunk on the shore of the Great Salt Lake in Davis County; the gas is found at a depth of some 800 feet. The gas is said to be of the best known quality, and it is claimed that some of the wells will yield an average of about 4,000,000 cubic feet in twenty-four hours with a rock pressure of 210 pounds.

It is stated the new American Gas and Fuel Company, who have sunk a number of wells, are now prepared to commence the construction of a gas plant and pipe line into Salt Lake City.

PROGRESS IN SCHOOL SYSTEM.

Utah has an excellent free-school system supported by taxation, and much attention is being given to the cause of education, and the schools of the Territory give promise of great development and usefulness.

Speaking of the free schools the governor in his report for 1891 says:

Under the influence of the free-school law, which first went into operation at the beginning of the last school year, September, 1890, there has been a marked increase in the attendance of pupils and a visible improvement in the methods and manner of teaching.

There now seems to be a growing desire throughout the Territory to give these schools the support which they are entitled to. In Salt Lake City the schools have been crowded beyond their capacity, and the board of education has found it difficult to supply the needed room. To remedy this a special election was held, and the citizens voted to bond the city in the sum of $600,000 for the purpose of building and furnishing schoolhouses. This great interest in the cause of popular education is an encouraging feature and speaks well for the Territory and its people.

Ogden City has also issued bonds to the amount of $100,000 for the purpose of erecting additional and improved school buildings.

The amount of Territorial and district school-tax levied for the benefit of the common free schools for the year 1891 amounted to $618,685.21.

Besides the common schools, Utah has its due proportion of private, church, and denominational schools.

In his report for 1892 the commissioner of schools for Utah says:

In my last annual report the number of children of school age in the Territory was given at 66,009, of which 53,044 were of Mormon parentage and 12,965 were of non-Mormon parentage. According to the present report, the total number of children of school age in the Territory is 73,359, of which 57,532 are of Mormon parentage and 15,827 of non-Mormon parentage. This shows the increase in one year of the children of school age who are of Mormon parentage to be 0.084 per cent and the increase of those of non-Mormon parentage to be 0.22 per cent. The schedule (Exhibit A) of school population shows that there are 10,934 children of school age in the Territory who attend no school. The report for the preceding year (1891) showed 11,059. It will therefore be noticed that, while the number of children of school age is rapidly increasing, the number of those who attend no school is decreasing.

The following table, showing that the total amount invested in the educational establishment of Utah is $1,457,965.52, and the general distribution of the schools throughout the Territory, is from the report of the commissioner of schools for 1892:

Value of school property.

Counties.	Grounds.	Buildings.	Furniture.	Apparatus.	Total.
Beaver	$535.00	$3,700.00	$1,904.25	$948.75	$8,328.00
Boxelder	2,823.00	27,134.67	5,863.57	3,993.80	39,815.04
Cache	13,495.00	66,812.96	9,825.77	2,930.68	85,483.13
Davis	8,882.97	23,922.80	5,707.50	1,873.50	40,485.95
Emery	1,733.75	5,687.17	2,633.61	1,697.55	11,752.08
Garfield	452.00	1,562.00	1,262.80	775.75	4,047.55
Grand	200.00	2,800.00	200.00	150.00	3,350.00
Iron	890.00	5,267.17	1,797.00	583.00	8,537.17
Juab	1,835.00	11,982.74	3,330.08	1,512.00	18,659.82
Kane	250.00	3,250.00	940.60	527.50	4,968.10
Millard	495.00	13,684.60	2,277.66	1,802.25	18,154.05
Morgan	2,100.00	9,300.00	1,495.00	420.00	14,722.00
Piute	275.00	1,225.00	1,635.87	859.50	3,995.37
Rich	650.00	2,900.00	875.00	675.00	5,100.00
Salt Lake (outside of city)	10,104.00	79,593.45	10,088.81	5,135.32	104,921.58
Salt Lake City	248,280.00	120,495.00	26,995.00	3,324.00	398,994.00
San Juan	.....	.....	380.60	.....	380.60
Sanpete	5,189.50	21,281.28	6,564.35	2,960.75	35,995.88
Sevier	4,489.00	4,721.00	3,781.50	1,702.25	14,684.75
Summit	6,210.00	42,441.92	5,625.68	2,123.36	56,400.96
Tooele	1,570.00	6,887.47	2,136.80	4,055.00	11,944.27
Uintah	430.00	3,765.00	1,824.45	446.00	6,481.85
Utah (outside of Provo)	14,521.00	61,107.00	11,411.70	4,694.00	91,733.70
Provo City	10,243.75	42,232.17	5,383.22	953.97	58,813.11
Wasatch	2,588.15	10,900.00	2,354.00	551.00	16,393.15
Washington	835.00	8,765.00	1,556.15	1,308.00	13,069.90
Wayne*	.....	.....	.....	.....	.....
Weber (outside of Ogden)	116,171.00	80,241.00	14,328.00	4,475.50	215,215.71
Ogden City	108,000.00	45,000.00	7,200.00	600.00	160,800.00
Total	563,039.12	704,569.40	139,378.57	50,978.43	1,457,965.52

* New county; included in Piute County.

The University of Utah at Salt Lake City and the Agricultural College at Logan, both Territorial institutions, extend the educational facilities usually afforded by similar establishments in the several States. The attendance at both is large and increasing annually.

Only about 5 per cent of the people of Utah are illiterate, and this fact, considered in connection with the educational facilities of the Territory and the ambitious character of the people, is ample assurance of one of the most essential characteristics of good citizenship. But the aim of education in Utah is not merely to reduce the number of those who are technically denominated illiterates, but to give to the pupils the same training and learning that may be had in the best schools of the East, and therefore the course of study includes not only the usual and ordinary branches, but extends to the higher studies which are taught in the schools of the older communities.

Utah has not been unmindful of the more unfortunate class of its citizens. It has established at Provo a large and well-equipped asylum for the insane, and at Ogden a reform school provided with all the necessary means for educating and instructing in some industrial pursuit such boys and girls as have no parents or homes and those who can not be controlled by home influences.

The minority of the committee insist that a Territory giving such manifest evidence of progress and wealth should be admitted to the sisterhood of States with all promptitude possible.

The bill as amended by the committee and reported by the minority is as follows:

A BILL to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on an equal footing with the original States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of all that part of the area of the United States now constituting the Territory of Utah, as at present described, may become the State of Utah, as hereinafter provided.

SEC. 2. That all persons who are qualified by the laws of said Territory to vote for representatives to the legislative assembly thereof are hereby authorized to vote for and choose delegates to form a convention in said Territory; and the qualifications for delegates to such convention shall be such as by the laws of said Territory persons are required to possess to be eligible to the legislative assembly thereof; and the aforesaid convention shall consist of one hundred and seven delegates, apportioned among the several counties within the limits of the proposed State as follows: Beaver County, two delegates; Boxelder County, four delegates; Cache County, eight delegates; Davis County, three delegates; Emery County, three delegates; Garfield County, one delegate; Grand County, one delegate; Iron County, one delegate; Juab County, three delegates; Kane County, one delegate; Millard County, two delegates; Morgan County, one delegate; Piute County, one delegate; Rich County, one delegate; Salt Lake County, twenty-nine delegates thus apportioned, to wit: Salt Lake City, First precinct, four delegates; Second precinct, six delegates; Third precinct, four delegates; Fourth precinct, four delegates; Fifth precinct, four delegates; all other precincts in said county, outside of Salt Lake City, seven delegates; San Juan County, one delegate; San Pete County, seven delegates; Sevier County, three delegates; Summit County, four delegates; Tooele County, two delegates; Uinta County, one delegate; Utah County, twelve delegates; Wasatch County, two delegates; Washington County, two delegates; Wayne County, one delegate; and Weber County, eleven delegates; and the governor of said Territory shall, by proclamation, order an election of the delegates aforesaid in said Territory to be held on the first Monday in August after the passage of this act, which proclamation shall be issued at least thirty days prior to such election. The board of commissioners known as the "Utah Commission" is hereby authorized and required to cause a new and complete registration of voters of said Territory to be made under the provisions of the laws of the United States and of said Territory. Said registration shall commence on the first Monday in June next after the passage of this act, and the registration lists of the several precincts shall be kept open for one week, commencing the fifth day of July succeeding, for the registration of such voters as may have been omitted; and such election for delegates shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such convention issued in the same manner as is prescribed by the laws of the said Territory regulating elections therein for members of the legislature. All persons resident in said proposed State who are qualified voters of said Territory, as herein provided, shall be entitled to vote upon the ratification or rejection of the constitution, under such rules and regulations as said convention may prescribe, not in conflict with this act.

SEC. 3. That the delegates to the convention thus elected shall meet at the seat of government of said Territory on the third Monday after their election, and, after organization, shall declare, on behalf of the people of said proposed State, that they adopt the Constitution of the United States; whereupon the said convention shall be, and is hereby, authorized to form a constitution and State Government for said proposed State. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence. And said convention shall provide, by ordinance irrevocable without the consent of the United State and the people of said State—

First. That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship. But said constitution shall prohibit polygamy or dual marriage, and polygamy or dual marriage shall be declared by such a constitution to be felony and punishable by any of the courts of said State of competent jurisdiction by inflicting a fine of not less than one thousand dollars or more than five thousand dollars, and confinement in the penitentiary for not less than one year or more than five years.

Second. That the people inhabiting said proposed State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or

held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the State on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use; but nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinance shall provide that all such lands shall be exempt from taxation by said State so long and to such extent as such act of Congress may prescribe.

Third. That the debts and liabilities of said Territory shall be assumed and paid by the said State.

Fourth. That provision shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of said State and free from sectarian control.

SEC. 4. That in case a constitution and State government shall be formed in compliance with the provisions of this act the convention forming the same shall provide by ordinance for submitting said constitution to the people of said State for its ratification or rejection, at an election to be held at a time fixed in said ordinance, at which election the qualified voters of said proposed State shall vote directly for or against the proposed constitution, and for or against any provisions separately submitted. The returns of said election shall be made to the secretary of said Territory, who, with the governor and chief justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast on that question shall be for the constitution the governor shall certify the result to the President of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitution and government of said proposed State are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the President of the United States to issue his proclamation announcing the result of said election, and thereupon the proposed State of Utah shall be deemed admitted by Congress into the Union under and by virtue of this act on an equal footing with the original States from and after the date of said proclamation.

SEC. 5. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, which Representative in the Fifty-third Congress, together with the governor and other officers provided for in said constitution, may be elected on the same day of the election for the adoption of the constitution; and until said officers are elected and qualified under the provisions of the constitution and the State is admitted into the Union the Territorial officers shall continue to discharge the duties of their respective offices in said Territory.

SEC. 6. That upon the admission of said State into the Union sections numbered sixteen and thirty-six in every township of said proposed State, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the legislature may provide, with the approval of the Secretary of the Interior: *Provided*, That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to and become a part of the public domain.

SEC. 7. That upon the admission of said State into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated lands within said State, to be selected and located in legal subdivisions as provided in section six of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the capital of said State when permanently located, for legislative, executive, and judicial purposes.

SEC. 8. That ninety thousand acres of land, to be selected and located as provided in the foregoing section of this act, are hereby granted to said State for the

use and support of an agricultural college in said State, as provided in the act of Congress making donations of land for such purposes.

And that there be further appropriated one hundred and ten thousand acres of land for the support of a university, said one hundred and ten thousand acres of land to include saline lands to an amount not to exceed three thousand acres.

SEC. 9. That ten per centum of the proceeds of the sales of public lands lying within said State, which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 10. That all lands herein granted for educational purposes, except as hereinafter otherwise provided, shall be disposed of only at public sale, and at a price not less than five dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools; and such land shall not be subject to preëmption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 11. That the lands, to the extent of two townships in quantity, authorized by the third section of the act of February twenty-first, eighteen hundred and fifty-five, to be reserved for the establishment of a university in Utah, are hereby granted to the State of Utah for university purposes, to be held and used in accordance with the provisions of this section; and any portion of said lands that may not have been selected by said Territory may be selected by said State. But said act is hereby so amended that none of said lands shall be sold for less than five dollars per acre, and the proceeds shall constitute a permanent fund, to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain as public institutions of learning under the exclusive control of said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 12. That all mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State in lieu thereof for the use and the benefit of the common schools of said State.

SEC. 13. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September fourth, eighteen hundred and forty-one, which section is hereby repealed as to said State, and in lieu of any claim or demand by the State of Utah under the act of September twenty-eighth, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to said State of Utah, and in lieu of any grant of saline lands to said State, except the grant of three thousand acres provided for in section eight of this bill, the following grants of land are hereby made to said State for the purposes indicated, namely:

For the establishment of permanent water reservoirs for irrigating purposes, two hundred thousand acres; for the establishment and maintenance of an insane asylum, fifty thousand acres; for the establishment and maintenance of a school of mines, fifty thousand acres; for the establishment and maintenance of a deaf and dumb asylum, fifty thousand acres; for the establishment and maintenance of a reform school, fifty thousand acres; for establishment and maintenance of State normal schools, fifty thousand acres; for establishment and maintenance of an institution for the blind, fifty thousand acres; for a miners' hospital for disabled miners, thirty thousand acres. The United States penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah.

The said State of Utah shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act; and the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned in such manner as the legislature of the State may provide.

SEC. 14. That all lands granted in quantity or as indemnity by this act shall be selected under the direction of the Secretary of the Interior from the unreserved and unappropriated public lands of the United States within the limits of said State of Utah. And there shall be deducted from the number of acres of land donated by this act for specific objects to said State the number of acres therein heretofore donated by Congress to said Territory for similar objects. None of the lands granted under this act shall be sold except at public sale, and for not less than five dollars an acre; but the State may lease any of the lands for periods of not more than five

years, under such regulations as may be provided by the laws of the State. *Provided*, That in all cases where the lands granted or selected by virtue of the preceding sections of this act are arid lands, the amounts donated or granted are hereby doubled so as to give two acres of arid lands for every acre of agricultural lands, and in case of school lands the excess shall be taken from sections two and thirty-two.

SEC. 15. That the State of Utah shall constitute one judicial district, which shall be called the district of Utah, and the circuit and district courts therefor shall be held at the capital of said State for the time being. The judge of said district shall receive a yearly salary of five thousand dollars, payable monthly, and shall reside in his district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The regular terms of said courts shall be held at the place aforesaid on the first Monday in April and the first Monday in November in each year. For judicial purposes the district of Utah shall be attached to the eighth judicial circuit, and only one grand jury and one petit jury shall be summoned in both of said courts.

SEC. 16. That the circuit and district courts for the district of Utah and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties possessed and required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations.

SEC. 17. That the marshal, district attorney, and clerks of the circuit and district courts of the said district of Utah, and all other officers and other persons performing duty in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the same fees and compensation allowed by law to other similar officers and persons performing similar duties.

SEC. 18. That the convention herein provided for shall have the power to provide, by ordinance, for the transfer of actions, cases, proceedings, and matters pending in the supreme or district courts of the Territory of Utah at the time of the admission of the said State into the Union to such courts as shall be established under the constitution to be thus formed, or to the circuit or district court of the United States for the district of Utah; and no indictment, action, or proceeding shall abate by reason of any change in the courts, but shall be proceeded with in the State or United States courts according to the laws thereof, respectively. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the Territory as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory, mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 19. That the sum of thirty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to said Territory for defraying the expenses of said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial legislature.

SEC. 20. That the constitutional convention may by ordinance provide for the election of officers for a full State government, including members of the legislature and a Representative in the Fifty-third Congress, at the time of the election for the ratification or rejection of the constitution, but the said State government shall remain in abeyance until the State shall be admitted into the Union as proposed by this act. And if said election should be held on or after the first Tuesday after the first Monday of November, eighteen hundred and ninety-four, a Representative in the Fifty-fourth Congress shall also be elected. In case the constitution of said State shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two Senators of the United States in the manner now prescribed by the laws of the United States; and the governor and secretary of state of the proposed State shall certify the election of the Senators and Representative in the manner required by law, and when such State is admitted into the

Union as provided in this act, the Senators and Representative shall be entitled to be admitted to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States; and the State government formed in pursuance of said constitution, as provided by the constitutional convention, shall proceed to exercise all the functions of State officers; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the constitution of the State, and the laws of the United States not locally inapplicable shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 21. That all acts or parts of acts in conflict with the provisions of this act, whether passed by the legislature of said Territory or by Congress, are hereby repealed.

The minority of the committee can not concur with the majority in that feature of the bill No. 352 which grants lands to the Territory of Utah. The bill grants double the amount of lands which were granted to the Territories of Washington, Montana, Wyoming, Idaho, and the two Dakotas, and from ten to twenty times the amount of land that was granted to other States when they were admitted into the Union. The bill reported by the minority of the committee is extremely liberal to the Territory of Utah in this respect: It grants 3,000 acres of saline lands for the university, and in case other lands granted are arid, as is contended by the majority, the bill reported by the minority grants double the amount designated in the bill, which would make the grant doubly as large as has ever been given to any Territory upon being admitted as a State.

The minority of the committee feel that it is much better to make the excessive grant contingent upon the granted lands being arid, because should any considerable amount of the lands prove to be good agricultural lands it would be doing great injustice to make the grant so far exceed the lands granted to other States.

IN CONCLUSION.

The main differences between the bill reported by the committee and the bill reported by the minority are as follows:

The bill reported by the committee does not prohibit polygamy or dual marriage.

The bill reported by the minority requires that the constitution under which the State is admitted shall prohibit polygamy or dual marriage and make polygamy or dual marriage a felony and punishable by a fine and imprisonment.

The bill reported by the majority makes a direct appropriation and donation of 1,350,000 acres of land, including all saline lands, and in addition thereto, for school purposes, four sections in each township, amounting to 6,042,311 acres, thus making a total donation of 7,392,311 acres. The grants heretofore made to States on their admission, for school purposes, have been as follows:

State.	Total area.	State.	Total area.
Section 16.	*Acres.*	*Sections 16 and 36.*	*Acres.*
Ohio	704,488	California	6,719,324
Indiana	650,317	Minnesota	2,969,999
Illinois	985,066	Oregon	3,329,706
Missouri	1,199,139	Kansas	2,801,306
Alabama	902,744	Nevada	3,985,428
Mississippi	837,584	Nebraska	2,702,044
Louisiana	786,044	Colorado	3,715,555
Michigan	1,067,397	Washington	2,488,675
Arkansas	886,460	The two Dakotas	5,366,451
Florida	908,503	Montana	5,112,035
Iowa	905,144	Idaho	3,068,231
Wisconsin	958,649	Wyoming	3,480,281

The bill reported by the minority makes a direct and unconditional donation to the State of 730,000 acres of land, including 3,000 acres of saline lands. The bill reported by the minority also donates to the State of Utah, when admitted, for school purposes 3,021,156 acres, making a total donation of 3,751,156 acres. In order to meet the contention that much of the land proposed to be donated is arid land, the bill reported by the minority provides that in all cases where such lands are included in the lands granted by the bill, the donations shall be doubled in quantity; that is to say, that in case any land received is arid land the State of Utah, when admitted, shall receive 2 acres for every one which is donated by this bill.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 163.

UNITED STATES COURTS IN MISSISSIPPI.

NOVEMBER 2, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. STOCKDALE, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 4245.]

The Committee on the Judiciary reports back House bill 4245 with the recommendation that it pass.

This bill proposes to enlarge the southern division of the southern judicial district of Mississippi so as to give jurisdiction to the United States circuit and district courts held at Mississippi City, Miss., over the counties of Wayne, Clarke, Jasper, Jones, Pearl River, and Covington, in addition to the counties of Hancock, Harrison, Jackson, Greene, Perry, and Marion, now constituting said southern division by act of Congress approved April 4, 1888.

The county of Pearl River was created subsequent to the passage of the law establishing said division and carved out of counties that were in said division, but question may arise as to its status in reference to jurisdiction.

The Courts at Mississippi City are more accessible to the people of the counties to be added than Jackson is. Most of the business in the United States courts arising in said counties to be added is concerning public lands, timber depredations, and homestead and trespass, and a majority of that business is on account of rafting logs down the various rivers to the coast towns, a very extensive business, centering mostly at Moss Point, at the confluence of Pascagoula and Log Rivers, and Pearlington and Lagtown, on Pearl River. Moss Point is about 35 miles from Mississippi City and Pearlington and Logtown about 30 miles. While Jackson is, by the usual lines of travel, over 200 miles from either point. The New Orleans and Northeastern Railroad runs through Jones, Jasper, and Clarke counties and the market places of the inhabitants is either at Mobile or New Orleans, and nearly all the business of the people of Covington County is done on said railroad or over it to New Orleans.

The people of these counties run their timber to the coast, and when they are on the coast or at New Orleans or Mobile can attend the court at the same trip, each point being about 70 miles from Mississippi City, and many of them go down through the country to Mississippi City; whereas Jackson is about 200 miles from New Orleans and from Mobile, and the inhabitants of the counties to be added to the coast dimension have no business in Jackson, and when summoned to court have to go on that business alone and lose the time and expense. The people of those counties desire the change.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 164.

SALE OF LAND IN FORT CUMMINGS MILITARY RESERVATION.

NOVEMBER 2, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. GRESHAM, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 356.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 356) "To authorize the Secretary of the Interior to reserve from sale certain land in the abandoned Fort Cummings military reservation, and for other purposes," have had the same under consideration and report it back with the recommendation that it pass.

The first section of this bill authorizes the reservation for the use of the public of a large and valuable spring of water on the abandoned Fort Cummings military reservation, in New Mexico, with a reservation of such land for right of way as may be deemed necessary by the Secretary of the Interior to secure to the public the right to have all the advantages of the spring.

Sections 2 and 3 of this bill authorize the Rio Grande, Mexico and Pacific Railroad Company to use water from the spring for the operation of its trains, under certain conditions and reservations, to be prescribed by the Secretary of the Interior.

In 1881, and when the military was still in occupation, the War Department permitted the railroad company to develop this then unused spring, which the company did by walling it up and placing a pump therein, whereby the water was taken to a large trough used by the post, and the overflow pipe from the trough connected with the water tank at the company's station some miles distant, and used there by the company in the running of its trains. After the abandonment of Fort Cummings by the military, the reservation was turned over to the Interior Department for survey and sale, in accordance with the general laws upon that subject. This spring of water has a large capacity, and is the only available spring for a distance of some 30 miles. Its use to the public and to the railroad, freed from private right, was essential. In the last Congress a bill was passed by the Senate and favorably reported by the House committee (as per copy of the committee's report herewith) which is identical with the pending bill. The bill was prepared by Senator White, of Louisiana, a member of the Senate Committee on Public Lands, after careful consideration. His purpose was to dedicate this spring to public use and to permit the railroad company to continue, as it has for years past, to use the surplus or overflowed water therefrom, carried through the pipe line to its station some miles distant. The road named is a part of the Atchison system.

The loss of use of this water would seriously interfere with the operation of the trains of the railroad company. The company originally offered to buy this spring and use the water therefrom in connection with the public, but the Senate and House committees of the last Congress concurred in the proposition that the water should not be sold to any one, but continue, as under present conditions, dedicated to the use of the public and to the company.

The suggestion of the Department's report that the particular subdivision on which the spring is located should be named in the bill is objectionable, because the spring is widely known in that section of the country, is readily identified, and if the survey should be found erroneous, so as to locate it upon some other subdivision, the act would be ineffectual.

The further suggestion made by the Department that the company's pipe line should name the termini is made without understanding of the facts. The pipe line runs through several miles of public land after it leaves the line of the reservation, before it reaches the railroad station and water tank. The conditions sought to be perpetuated by the bill have continued for years without complaint from any source, and for the continuing benefit of the public and the company. The act proposes to leave that situation unchanged for the continuing benefit of all concerned.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 165.

BRIDGES OVER THE NECHES AND SABINE RIVERS IN THE STATES OF TEXAS AND LOUISIANA.

NOVEMBER 2, 1893.—Ordered to be printed.

Mr. GEARY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT:

[To accompany H. R. 3689.]

The Committee on Interstate and Foreign Commerce to whom was referred the bill (H. R. 3689) authorizing the Gulf, Beaumont and Kansas City Railway Company to bridge the Neches and Sabine rivers in the States of Texas and Louisiana, having had the same under consideration, report it back with amendments and with the recommendation that the bill as so amended do pass.

Amend section 1 as follows:

In line 9, after the word "company," insert the words "subject to approval by the Secretary of War."

In line 19 strike out the words "or fifty feet above highest water."

In line 28 strike out the words "or pivot piers" and insert in lieu thereof the word "span."

Amend section 5 as follows:

In line 17, after the word "be," insert the words "commenced or."

In line 24 change the word "correct" to the word "erect."

Attached thereto are letters of the Secretary of War and of the Chief of Engineers, U. S. Army, which indicate as the opinion of the War Department that, if the bill be amended as herein proposed, there is no objection to the passage of it by Congress so far as the interests of navigation are concerned.

WAR DEPARTMENT,
Washington, D. C., October 25, 1893.

SIR: I have the honor to acknowledge the receipt of your letter of the 11th instant, transmitting a copy of House bill 3689, Fifty-third Congress, first session, "Authorizing the Gulf, Beaumont and Kansas City Railway Company to bridge the Neches and Sabine rivers in the States of Texas and Louisiana," and in returning the same beg to invite your attention to the inclosed report of the Chief of Engineers, dated the 23d instant, and to the amended copy of the bill submitted by that officer, who remarks that as amended no objection is known, so far as the interests of commerce are concerned, to the passage of the bill by Congress.

Very respectfully,

DANIEL S. LAMONT,
Secretary of War.

The CHAIRMAN OF THE COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE,
House of Representatives.

OFFICE OF THE CHIEF OF ENGINEERS, U. S. ARMY,
Washington D. C., October 23, 1893.

SIR: I have the honor to acknowledge reference to this office, for report, of letter of the 11th instant from the House Committee on Interstate and Foreign Commerce, inclosing, with request for War Department views thereon, H. R. 3689, "A bill authorizing the Gulf, Beaumont and Kansas City Railway Company to bridge the Neches and Sabine rivers in the States of Texas and Louisiana."

In returning these papers I have to recommend that the bill be amended as follows:

Section 1, line 9, after the word "company" insert "subject to approval by the Secretary of War."

Line 19, strike out the words "or fifty feet above highest water."

Line 28, strike out the words "or pivot piers" and insert in lieu thereof the word "span."

Section 5, line 17, after the word "be" insert "commenced or."

Line 24, change the word "correct" to "erect."

A copy of the bill, with the proposed amendments indicated thereon, is submitted herewith, and as thus amended no objection is known, so far as the interests of commerce are concerned, to its passage by Congress.

Very respectfully, your obedient servant,

THOS. LINCOLN CASEY,
Brig. Gen., Chief of Engineers.

Hon. DANIEL S. LAMONT,
Secretary of War.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 166.

CHOCTAW COAL AND RAILWAY COMPANY.

NOVEMBER 2, 1893.—Ordered to be printed.

Mr. ALLEN, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 299.]

The Committee on Indian Affairs to whom was referred House bill 299, having had the same under consideration, report the same back with amendments, as follows:

Section 1, line 11, strike out "three" and insert "two," and in line 13, same section, strike out "ninety-seven" and insert "ninety-six." Strike out all of sections 2, 3, and 4, and amend the title by striking out the words "and to confer additional powers upon said company."

Your committee recommend the passage of the bill as amended.

The bill simply gives an extension of time to a railroad company which has completed a considerable portion of its line, but on account of the financial stringency has not been able to fully complete it in the time allowed.

O

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 167.

SALE OF INTOXICATING LIQUORS IN THE DISTRICT OF COLUMBIA.

NOVEMBER 3, 1893.—Referred to the House Calendar and ordered to be printed.

Mr. COBB, of Alabama, from the Committee on the District of Columbia, submitted the following

REPORT:

[To accompany H. R. 3740.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 3740) to amend an act entitled "An act regulating the sale of intoxicating liquors in the District of Columbia," recommend that the same do pass with the following amendment:

In line 9, after the word "specified," insert the words "in any section of said act."

The purpose of the act as amended is to make the act of March 3, 1893, clearer in its provisions as to the locations at which intoxicating liquors may be sold, and also to deprive said act of its retroactive features as to such locations so as not to destroy a business heretofore established; but to cause said exceptions as to locations contained in section 16 of said act of March 3, 1893, not to apply to places of such business as were established before the enactment of said act of March 3. 1893.

63D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 168.

ADMISSION OF ARIZONA INTO THE UNION.

NOVEMBER 3, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SMITH, of Arizona, from the Committee on the Territories, submitted the following

REPORT:

[To accompany H. R. 4393.]

The Committee on the Territories, to whom was referred the bill (H. R. 3322) to provide for the admission into the Union of the State of Arizona, beg leave to report:

Arizona lies along the northern boundary of Sonora, and is the extreme southwestern political division of the United States. It is 378 miles in length by 339 in width and contains an area 113, 929 square miles, or 73,000,000 acres, a large part of which is capable of producing every variety of fruit, vegetable, and cereal known to the temperate zones; mines of gold, silver, copper, iron, and coal inexhaustible in extent; lakes of salt, springs of petroleum, and forests of pine, cedar, spruce, juniper, ash, and oak of as great extent as any State or Territory of the Union. That part of Arizona lying north of the thirty-fourth parallel, embracing only four counties, is greater in area, and in everyrthing else except population, than the six New England States combined. The part lying south of that parallel is destined to become the most famously productive portion of the globe. Within that area the date, olive, fig, grape, lime, lemon, and orange grows, under proper husbandry, in prodigal profusion. Ascending from the lower valleys every fruit of the temperate zones is produced in perfection.

Arizona carries within itself more of all the resources of a great commonwealth than any State or other Territory of our Union.

POPULATION.

The last census places the population of Arizona at 60,000, exclusive of Indians and others living on reservations. The governor's report, 1891, admits the inaccuracy of this statement. It is very wide of the mark. When our vast distances are considered in conjunction with the meager rate paid enumerators it is no wonder that such inaccuracy exists. It was impossible that a proper enumeration could be made. The population of Arizona is now much larger than in 1888, yet even then the registered vote of the Territory was only a few short of 17,000. Taking 1888 as a basis, and counting one voter to each five of the population, and we had even then in round numbers over 100,000 people.

And it is the very best population. Every corner of our Republic is represented by its young, intelligent, courageous, self-reliant, and progressive manhood. The pioneers—many of them—are still there, enjoying in the peaceful sunset of life the fruition of their early hopes.

TAXABLE PROPERTY.

The board of equalization for the current year (1891) gives the property as assessed in the various counties; from which assessment the governor's report makes the following summary:

3,364,668 acres of taxable land	$4, 602, 121.00
Improvements thereon	2, 302, 214.20
City and town lots	1, 972, 252.00
Improvements thereon	2, 347, 424.50
720,940 cattle	5, 970, 597.35
288,727 sheep	320, 597.28
47,912 horses	1, 188, 168.45
1,757 mules	58, 973.00
1,498 asses	12, 025.30
3,460 goats	3, 579.50
5,460 hogs	16, 829.32
1,083 miles of railroad	6, 145, 008.02
All other property	3, 330, 676.36
	28, 270, 466.28

The governor of Arizona in his last official report give the following:

The average valuation is:

Land per acre	$1.37
Cattle per head	8.28
Horses per head	24.79
Sheep per head	1.11
Mules per head	33.36
Asses per head	8.03
Goats per head	1.03
Hogs per head	3.82
Railroads per mile	5, 674.06

The valuation of improvements and other property is correspondingly low. The rate of taxation varies in the different counties, but the average rate in the Territory for all purposes is $3.28+ on $100. The total assessed valuation of the taxable property in the Territory as given above is $28,270,466.28. There is unquestionably $70,000,000 of taxable property in Arizona, and fully that amount would be stated if proper assessments and valuations were had. The present system of low valuations and high rates is injurious and misleading and calculated to create false impressions with intending immigrants and investors. Notwithstanding the heavy debt of the Territory, our financial condition would be good if our property were properly assessed and valued, and we would not be continually required to explain why the rate of taxation in Arizona is higher than the rate of interest required for money on call loans in some parts of the East. The truth is, not over one-third of our property is assessed, and very little property except real estate is rated at over one-half its actual value.

It is conceded by all who are acquainted with the facts that if all the property of Arizona were assessed, and at its full value, the rate of taxation would be as low here as in many of the most prosperous States.

It is very necessary for the Territorial welfare that these facts be understood and appreciated throughout the country.

The total assessed valuation of the Territory has increased nearly a quarter of a million of dollars since last year, notwithstanding a reduction of over $470,000 in railroad valuations.

The report largely understates the real valuation of property, from a desire on the part of the acting governor to fall below rather than rise above the actual value of taxable property in Arizona. I firmly believe that the county of Maricopa alone has property equal to the whole assessment roll of the Territory as shown in the table which I have just read. I may overstate the wealth of that county, but I am honest in my belief as expressed.

INDEBTEDNESS.

The bonded and floating debts of the Territory and the bonded and floating debts of the counties therein amounts in round numbers to

$3,000,000. This seems a large percentage on the property valuation, but if the real wealth of the Territory is considered the debt becomes an easy burden. The constitution adopted has provided a tax to meet these obligations. Arizona has never yet and never will default on her obligations.

SETTLEMENT OF LANDS.

On September 12 last the Prescott land office, and shortly thereafter the Tucson land office, made the following reports to Hon. N. O. Murphy:

The preëmption and timber-culture acts, as you are aware, were repealed in March last, consequently there was but little done under either of these laws. There were, however, a few sundries or filings under each, leaving the record about as follows:

		Acres.
27	coal-land filings, about	4,000.00
97	preëmption filings, embracing about	15,000.00
4	original timber-culture entries	480.00
80	homestead entries	12,261.97
35	final homestead entries	5,479.99
21	cash entries	2,120.01
2	original desert-land entries	120.00
1	final desert-land entry	420.00
1,650	quarter sections, railroad selections	263,923.46
16	final mineral-land entries	306.00
	Total	303,931.43

Respectfully submitted.

T. J. BUTLER,
Receiver.

UNITED STATES LAND OFFICE,
Tucson, Ariz., September 18, 1891.

Hon. N. O. MURPHY,
Acting Governor, Phœnix, Ariz.:

DEAR SIR: I have the honor to transmit herewith, as per your request, 7th instant, a full and complete record of the agricultural and mineral entries made in this office for the year ending June 30, 1891.

Original entries.	No.	Acres.	Final entries.	No.	Acres.
Homestead	162	22,619.03	Homestead	96	14,106.54
Desert land	139	36,734.93	Desert land	80	28,880.86
Preëmptions	93	12,224.50	Cash	103	12,651.39
Timber culture	51	7,224.50	Timber culture	2	240.57
Mining applications	21	342.35	Mineral	16	267.57
Total	466	79,120.81	Total	259	56,146.93

RECAPITULATION.

	No.	Acres.
Original entries	466	79,120.81
Final entries	279	56,146.93
Total	745	135,267.74

The foregoing does not include some 10,000 acres of land passed under special letter of the Department, because of ex-Receiver Smith's defalcations.

Very respectfully,

HERBERT BROWN,
Register.

Commenting on this, the acting governor says, referring to the Gila land district:

The area of this district comprises 45,318 square miles, or nearly 30,000,000 of acres, exceeding in size the great State of Pennsylvania 318 square miles, or 203,520 acres; but notwithstanding the enormous size of the Gila district, it is less than the Prescott district by 23,000 square miles, or 14,720,000 acres.

A casual glance at the foregoing shows Arizona to be not an estate, but an empire, capable of great and unlimited possibilities when its vast resources, now practically untouched, shall have been developed. Inclusive of the lands contained in the Indian and military reservations the approximate amount of land entered at the office in this district amounts to but one-thirtieth of the whole area. The room for profitable investment in Arizona is equaled by no other State or Territory in the Union. The little that has been done is indicative of what can be done, and sooner or later will be done. The deserts of Arizona will disappear under the rosebush and the dread of the Apache under the sod. The world will yet marvel at the greatness of Arizona. Let the following figures be carefully considered:

Approximate quantity of public land unsurveyed, exclusive of military and Indian reservations, subject to settlement under existing laws, July 1, 1891, in each county in the Gila land district, Arizona:

County.	Acres.	County.	Acres.
Apache	27,760	Gila	410,020
Graham	2,230,440	Maricopa	3,600,900
Cochise	2,501,280	Yuma	4,165,790
Pima	5,065,119		
Pinal	2,220,466	Total	20,221,775

Lands subject to entry in the Gila district as follows

County.	Acres.	County.	Acres.
Apache	13,440	Gila	40,780
Graham	620,630	Maricopa	377,680
Cochise	1,327,416	Yuma	526,810
Pima	1,204,000		
Pinal	762,494	Total	4,873,250

RAILROADS.

The following railroads are now being operated in the Territory:

	Miles.
Southern Pacific of Arizona	383
Atlantic and Pacific	393
New Mexico and Arizona	87
Prescott and Arizona Central	73
Arizona and New Mexico	41
Arizona and Southeastern	36
Central Arizona	35
Maricopa and Phœnix	34
Total	1,082

The Southern Pacific passes along the southern part of the Territory from Yuma, on the Colorado River, to the eastern boundary of Cochise County, passing through the counties of Yuma, Maricopa, Pinal, Pima, and Cochise.

The Atlantic and Pacific crosses north of the center of the Territory near the thirty-fifth parallel and passes through the counties of Apache, Yavapai, and Mohave.

The New Mexico and Arizona runs from Benson on the Southern Pacific, in Cochise County, to Nogales, in the same county, at the Mexican line.

The Prescott and Arizona Central runs frum Prescott Junction on the Atlantic and Pacific to Prescott and is all in Yavapai County.

The Arizona and New Mexico runs from Clifton, in Graham County, to the Southern Pacific at Lordsburg, N. Mex.

The Arizona and Southeastern runs from Bisbee, Cochise County, to Fairbanks, on the New Mexico and Arizona, in the same county.

The Maricopa and Phœnix runs from Maricopa, Pinal County, on the Southern Pacific, to Phœnix, Maricopa County.

The Central Arizona runs from Flagstaff on the Atlantic and Pacific, southward for 35 miles in the pine forest, and is projected to extend to Globe, in Gila County, and possibly to Phœnix, Florence, Tucson, and Calabasas, in southern Arizona. This road was formerly known as the Mineral Belt, and is not now being operated except for logging purposes by the Arizona Lumber Company. The extension of the road as projected would be of the utmost advantage to the Territory. Railway communication from north to south is absolutely necessary to the proper welfare and progress of Arizona. Several north and south roads are being projected, and the people of the Territory are very desirous for their success.

TIMBER LANDS.

Within Arizona is a vast tract of timber land, including the famous Mogollon forest, which covers an area of 10,000 square miles, or 6,400,000 acres, being, with probably one or two exceptions, the most extensive body of timber in the known world, and it has never yet felt the stroke of an ax. The timber belt of northern Arizona alone covers an area of 20,000 square miles, or 12,800,000 acres. In 1886 ties were sawed at Flagstaff for 1,500 miles of railroad in Old Mexico, and from this point great quantities of sawed lumber are yearly shipped into California and New Mexico, yet the fringe of this forest's mantle has not been torn. The pine grows to the height of 150 feet, with a diameter of 5, 6, and 8 feet. It grows as straight as a die, and the first branches are from 50 to 75 feet above the ground. The ash, black walnut, and scrub oak, are found in the lower valleys and ravines. Besides these are the cottonwood, alder, cedar, manzanita, maple, mesquite, wild cherry, and ironwood, the last a tree peculiar to Arizona and Sonora. It is hard and brittle and takes a beautiful polish. When dry it can scarcely be cut with an ax, and has a specific gravity greater than water. It creates a furnace heat equal, it is said, to the best coke.

The acting governor of Arizona in the report heretofore referred to says:

The principal kinds of timber used for fuel are pine, oak, juniper, and mesquite, and the supply is usually bountiful in all populated parts of the Territory. The principal shipping point for lumber is Flagstaff, on the Atlantic and Pacific Railroad, in northern Arizona. In this connection I submit the following communication from Hon. D. M. Riordan, president of the Arizona Lumber Company at Flagstaff, whose information and reliability on this subject can not be questioned:

"In response to yours of the 17th, which is just at hand, I beg leave to say (without having before me all the data necessary to complete accuracy), my belief is that the pine-timber resources of this Territory will be quite sufficient for any population we will have, near or remote, even with wasteful and improvident methods, for at least one hundred and fifty years, but if properly conserved, they can be made to furnish all the timber needed for wise use by all the people this Territory can support, for all time to come.

"I base this upon my knowledge of the timber to this particular forest. The increase by growth is to-day vastly in excess of the quantity being removed.

"Conservative judges and estimators of timber who have had greater experience than I, place the quantity of timber on the Colorado plateau at about 8,000 million feet. This includes the Coconino forest, but does not include the forests of the White Mountains nor the timber in the Santa Catalinas, Santa Ritas, nor in any other of the timber-covered regions of the Territory."

Yet, with this wonderful wealth of trees, Arizona is by many educated people considered a vast arid plain, supporting no growth greater than sagebrush and cacti. The Mogollon forests have been described (see report of governor, 1887) as equal in extent to the combined area of New Jersey and Delaware, larger than Massachusetts, and double the size of Connecticut.

In concluding this subject it is enough to say that her timber alone will produce wealth enough to support a prosperous State. But we are not forced to rely on this. We wish to see the timber preserved under wise legislation, at the same time granting the settlers and miners reasonable and free use of the same. This can be done without injury to the forests.

IRRIGATION.

Agriculture is rapidly becoming the principal industry of Arizona. It can be profitably maintained only by irrigation in the southern counties. Maricopa County has on the Salt River about 185 miles of canals, reclaiming a quarter million acres of the most fertile land in the world. On the Gila River, in the same county, there are some 90 miles of irrigating canals, reclaiming 50,000 acres. When the water shall be economically used and the canals extended, these rivers will give 1,000,000 acres to the productive area of the State.

Yuma County has 125 miles of canals, reclaiming 90,000 acres, and has in course of construction one of the largest irrigating canals in the Territory. There is a proposition on foot to take out an immense canal from the Colorado, south of Yuma, to reclaim vast bodies of fine lemon, orange, and fig lands.

Pinal County, from the Gila and San Pedro rivers, has over 125 miles of irrigating ditches. A storage reservoir has been constructed south of Florence, with a capacity of 8,000,000,000 gallons.

Graham County has fully 80 miles of irrigating ditches, Cochise 50, and Pinal probably as much. The two last-named counties, however, are chiefly devoted to mining and stock-raising. When we consider that these vast canals have been constructed and great deserts reclaimed within the last few years, we can, perhaps, form an appreciable idea of what the State of Arizona is destined to be. As to the agricultural products, reference is made to the annual reports of the governors of Arizona.

In the presentation of Arizona's claim to statehood before this committee in the Fiftieth Congress, in March, 1891, speaking in this connection, the Delegate from Arizona said:

South of the thirty-fourth parallel all semitropical fruits grow to perfection. It is the natural home of the olive, the fig, the orange, apricot, and pomegranate. The vine nowhere so flourishes. The fruits are from two to four weeks earlier in the market than the California product. Fruit-culture has passed the experimental stage and is already a source of rich revenues. Twenty-two thousand orange trees were this year planted in the Salt River Valley. Think of it—southern Arizona produces to perfection oranges, almonds, quinces, pears, peaches, figs, pomegranates, apricots, olives, nectarines, peanuts, plums, dates, prunes, pecan nuts, apples, grapes, strawberries, raspberries, and every kind of melon.

All of these can be seen growing on one farm and growing in a luxuriance that is absolutely amazing. Watermelons, for instance, and cantaloupes are of the finest and grow larger than in other countries. We certainly have watermelons larger than the watermelons raised in Georgia. I have frequently found them from 50 to 60 pounds in weight.

STOCK-RAISING.

The assessment rolls give no appreciable idea of the live stock in the various counties of Arizona. As land is assessed at less than one-third of its value it is fair to presume that the large herds of cattle and sheep are equally favored. Even under these conditions the last assessment roll placed the value of live stock at nearly $8,000,000. This broad land holds no place more favorable to stock-raising than Arizona. The percentage of increase is greater and loss less than in any other Territory or State. It is estimated that 300,000 cattle and 2,000 horses have been exported during the year.

Taking Yavapai County alone—as it happens to be the most convenient to get the assessment roll—as a basis to estimate the herd increase, and we find the following results:

Total number of cattle in county: 1882, 34,243; 1883, 49,132; 1884, 64,008; 1885, 99,688; 1886, 116,286. This year (1888) there was assessed in that county, which of course only shows about two-thirds of the actual number, 12,447 horses, 86,262 sheep, 145,058 cattle.

Since 1888 these cattle have increased largely. I have not the assessment roll of the last year before me.

From data then before me I said Arizona has more sheep than Rhode Island and Connecticut combined and more than the great States of Kansas and Nebraska, and nearly twice as many as Idaho. She has four times as many hogs as Wyoming and more than Wyoming and Nevada together. She has more horses than Rhode Island and Delaware, and her herds are rapidly increasing.

MINING.

Arizona is beyond question the richest mineral country in America. Not a mountain range yet prospected that does not contain veins of the precious metals. Ore is found everywhere. Gold, silver, and copper mining is successfully pursued. Wells, Fargo & Co., the express company of the Western States, report the yield of gold and silver the last year at $5,771,555. Of course, this is far below the actual product. That company's estimate is based on its shipments and makes no note of the immense amount of silver ore freighted from Arizona to El Paso, Pueblo, and other reduction works without the boundaries of Arizona.

In addition to this is the great copper output, which, as far back as 1888, amounted to over 30,000,000 pounds a year. There is no limit to Arizona's power to produce copper. The gold and silver output for the year 1891 falls only a little short of $8,000,000, which, added to the copper, estimated at only 10 cents per pound, and the total reaches the magnificent sum of $11,000,000 annually.

EDUCATION.

Arizona has the most liberal school system in the United States, and bears without complaint, but with cheerfulness, a heavier tax for school

purposes than any other people. They have 12,882 children of school age; 220 schools; average school months in the year, 7; 240 teachers, with average salary of $77 per month. Total receipts for school purposes, $201,288.71. Cost per child, over $5 per month.

While the increase in population in the last decade has been 50 per cent the increase in enrollment of school children has been 85.85, as per United States Census. The governor's report, 1891, says:

The proportion of enrollment is, boys 100 and girls 65, marking the extreme in the United States, and is evidence of character of population as well as general desire for common-school education.

Text-books and course of study are well up with the times, and in the larger towns a high-school course is provided.

The grammar-school course is so graded that its completion meets the requirements of admission to the Territorial normal school, which, with the university, provides a complete system of public-school education within the Territory.

TERRITORIAL NORMAL SCHOOL.

The normal school, established six years ago and maintained at Territorial expense, continues to grow in usefulness, and is an important factor in the educational system of the Territory.

The course of study embraces the subjects usually taught in similar schools in the States, and requires a period of three years for its completion.

There has been a steady increase in attendance since its organization.

In 1889 the legislature of Arizona passed a bill appropriating three-fourths of a mill on each $1 of the assessed value of all property in the Territory for the support and maintenance of the university. This act was amended by the last legislature, making the annual appropriation one-half a mill. From this source the university has had placed to its credit to June 30, 1890, the sum of $33,395.89. The Territorial appropriation is being expended in the completion of the university and other buildings.

The university has received to 1893:

From the General Government for the agricultural experiment station	$25,000.00
From the General Government for the equipment and support of university	31,000.00
From the Territory for the equipment and support of university	59.245.89
From all sources a total of	$115,245.89

They have also a school of mines and an experimental agricultural station.

Congress never has, and it seems never will, give proper protection to Territorial school lands. Unless a survey shall soon be made and the school lands segregated and put under Territorial control, the schools will receive little or no benefit from them. If Arizona is admitted as a State, the survey will be none the less necessary.

PUBLIC BUILDINGS.

Arizona has never received one cent in aid of any public building.

The public buildings of Arizona consist of the Territorial prison, situated at Yuma; the Territorial university, at Tucson; the insane asylum, at Phœnix, and the normal school, at Tempe. All have been erected at Territorial expense, and are creditable structures.

CUSTOMS.

Arizona, by act of Congress, was recently made a customs district. The chief port of entry is Nogales, a railroad town on the International line. The total value of importations for eleven and one-half months of the fiscal year ending June 30, 1891, was $3,194,209.

PRODUCTIONS.

It was shown before the committee of the Fifty-first Congress that Arizona the year before produced agricultural and horticultural prod- which were worth $9,207,000; live stock, $6,600,000; gold and silver, $4,431,500; copper, $2,000,000; lumber, wool, etc., $1,500,000, making a total of over $23,000,000 worth of products, of which $13,000,000 were exported.

In a very short time Arizona will be the largest fruit-producing State in the Union.

STATEHOOD.

In the light of the facts presented your committee can not conceive any valid objection to Arizona's early admission to statehood. She is fully as well equipped for the burdens and duties incident to sovereignty as was either Wyoming or Idaho.

Congress did right in admitting them, and did wrong in failing to admit Arizona. Idaho is fully equal to Wyoming in population and wealth, and, for the purpose of showing that Arizona equals either, your committee here reproduce a comparative table showing the resources of Arizona and Idaho at the time both were clamoring for statehood in the Fifty-first Congress.

The table is as follows:

	Arizona.	Idaho.
Population, 1880	40,440	32,619
Registered votes, 1888	16,930	.....
Delegate vote, 1888	.....	16,013
Area ..sq. miles..	113,929	86,294
Forest ..acres..	20,000,000	10,000,000
Assessed property in 1889	$30,000,000	$24,000,000
Estimated values	$95,000,000	$68,000,000
Bullion output		
1887	$10,751,555	$9,000,000
1889	(*)	$17,000,000
Cattle	1,815,000	1,120,000
Sheep:		
Estimated	1,390,000	960,000
Report of the Department of Agriculture	698,000	480,000
Railroad ..miles..	1,097	888

* Have not Arizona for 1889.

In this connection we give the following extract from the argument of the Delegate to Congress from Arizona before this committee on the present bill.

I am informed by the Senator from Idaho (Mr. Dubois) that statehood gave a wonderful impetus to every branch of trade, and a marked increase of production was everywhere apparent. This is true of all the new States and will be true with Arizona.

Gentlemen of the committee: I have already trespassed too long on your time, but there is another fact worthy of the consideration of this committee, and that is, the character of the population of the Territory of Arizona. I believe some of the other

Territories may have a citizenship equal to it in all that goes to make up manhood, but certainly no political division of this country has a better educated constituency than I have the honor here to speak for. Gentlemen, it has been often said that it takes the bravest and strongest to break loose from the ties of home, and kindred, and friends, and seek a fortune amid the dangers which surround a frontier existence. If there were no other proof of that fact, a knowledge of the people of this frontier, their character, their strength, their self-reliance, their integrity were enough to demonstrate the truth of the proposition.

It is rare that you ever see a man in Arizona who can not read and write. The uneducated do not go there. They are as capable of self-government as any people in the United States.

My constituency are largely young men, educated, progressive, pushing, energetic, self-reliant. They are not an ignorant people. They are not a people reckless of their lives and reckless of the Government. They are careful legislators, good men, and as good a body of people, taken as a whole, as exists anywhere.

The day of blood has passed away. Good order is kept in Arizona; better, in fact, than in most of the Eastern States. Title is no longer defended or maintained by Winchester rifles. The courts settle our questions of property. You rarely hear of petty larceny. People sleep with open doors, confident of awakening with their household goods intact. The murderer has quit his occupation there. Peace and good will have taken the place of strife and disorder.

Tombstone, which was once synonymous of everything bad, now boasts as peaceful a community as lives on the earth. The old times have passed away. A new day has come, and our people are justified in their prayer to be released from the degradation of Territorial bondage.

Peace and quiet are everywhere supreme. The cattle are herded on the plains; the miner prospects the mountains for hidden treasure; the farmer pursues his daily avocation with no deadly arms at his side and with no fear in his heart. Arizona's future is assured. Life and property are as safe there as in this city. Law is supreme. Her population, by every rule of virtue, education, property, patriotism, and industry, fills to the fullest measure every requirement of citizenship.

LANDS GRANTED THE STATE.

It will be observed that in both New Mexico and Arizona the committee has recommended that for common school purposes the United States grant the second, sixteenth, thirty-second, and thirty-sixth sections to the State. This, of course, is double what has heretofore been given in acreage, but the committee is of opinion that when the fact of the arid condition of the lands and the large amount of rugged nonproductive mountains included in these sections is taken into consideration the grant will not more than equal in value the land aid Congress has given the other States.

The unoccupied land in Arizona is strictly arid. It can not be made productive without artificial irrigation, and this can not be had except at great cost of time and money. So it will be found that with the donation of land as recommended by the committee, the schools will receive no more aid than has heretofore been granted to other States. These strictly arid lands are absolutely worthless to the Government, unless it intends to assume the great expense of reclaiming them. This it is not apt to do. The State can best control them, especially when the profit shall be held a secure fund for the education of the children of a people who have shown their devotion to the common-school system by expending more money per capita for its support than any State or other Territory in the Union.

A bill to grant all the arid lands to the States and Territories in which such land is found has been favorably reported by a committee to this present Congress, and a careful perusal of that report will throw further light on the question here considered.

This question is also fully discussed in the report of this committee on the New Mexico admission bill, to which the attention of the House is called.

The physical condition of the land itself when well understood will reveal sufficient reason for the increased grant of acreage in Arizona.

Your committee therefore recommend the passage of the bill, being unable to discover any valid reason to keep this prosperous people longer under the burdensome and anomalous conditions incident to a Territorial government. She is, besides, being discriminated against, as there are States of the Union with less resources, population, and wealth.

The constitution of Arizona herewith presented, marked Exhibit A, was duly framed and adopted. By act of the last Territorial general assembly a law was passed under which delegates to a constitutional convention were elected on the 6th day of May, 1891. The convention assembled, with every member-elect save one present, on the 6th day of September, 1891. The constitution framed by the convention was submitted, as required by the act aforesaid, to the qualified electors of the Territory on the first Tuesday in December, and was ratified by over a two-thirds vote of the people. The constitution we find republican in form and not averse to the Constitution of the United States.

EXHIBIT A.

CONSTITUTION FOR THE STATE OF ARIZONA, AS ADOPTED BY THE CONSTITUTIONAL CONVENTION FRIDAY OCTOBER 2, 1891.

PREAMBLE.

We, the people of Arizona, grateful to the Supreme Being for our liberties, in order to form a more independent and perfect government, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the State of Arizona.

ARTICLE I.

The powers of government of the State are divided into three distinct departments, the executive, the legislative, and judicial; and no person or collection of persons, belonging to one of these departments shall exercise any power properly belonging to either of the others, except as hereinafter expressly directed or permitted.

ARTICLE II.

BILL OF RIGHTS.

SECTION 1. Governments are instituted among men for the security of life, liberty, and property, and derive their just powers from the consent of the governed; and to secure these ends, the right to alter or reform is inherent in the people.

SEC. 2. The union of the States of the United States of America is a bond of government supreme and indissoluble; the power of the General Government over any State or people to enforce obedience to the Constitution and laws, and to punish any violation of the same, is supreme and indisputable.

SEC. 3. The military shall at all times be in strict subordination to the civil power. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in the manner prescribed by law.

SEC. 4. The right of the people to keep or bear arms for their own defense, and that of the Government, shall not be infringed. The legislature shall have the power to regulate the wearing of arms to prevent crime.

SEC. 5. The civil rights of the people shall not be abridged except on conviction for crime.

SEC. 6. The right of the people to be secure in their persons, houses, papers, and effects shall not be violated; and no warrant shall issue but on probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person, or things to be seized.

SEC. 7. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, or by information based upon an affidavit as may be prescribed by law; except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any one be subject, for the same offense, to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor to be deprived of life, liberty, or property without due process of law.

SEC. 8. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county wherein the crime shall have been committed; to be informed of the nature and cause of the accusation by copy of the same; to be confronted with the witnesses against him; depositions of non-residents of the State, or invalid witnesses may be taken in the presence of himself and counsel as the law may prescribe; to have compulsory process for obtaining witnesses, in his favor, free, and to have the assistance of counsel for his defense.

SEC. 9. A person arrested shall immediately be taken before a magistrate having jurisdiction, to be dealt with according to law; before conviction he shall not suffer punishment or indignity beyond the necessary precautions to prevent escape or rescue; he shall be permitted to converse with counsel at all times, and with other persons at seasonable hours and under safe conditions.

SEC. 10. In suits at common law and in the trial of crimes, not felonies, the legislature may provide that a verdict be by concurrence of three-fourths of the jury.

SEC. 11. In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

SEC. 12. All persons shall be bailable, by sufficient sureties unless for capital offenses when the proof is evident. This provision shall not be so construed as to prevent bail after indictment found, or information filed, upon examination of the evidence in such manner as may be prescribed by law.

SEC. 13. The writ of habeas corpus is a writ of right and shall never be suspended. The legislature shall enact laws to render the remedy speedy and effectual.

SEC. 14. Excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishment inflicted.

SEC. 15. All courts shall be open, and every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law.

SEC. 16. No bill of attainder or *ex post facto* law or law impairing the obligation of contracts shall be made. No conviction shall work corruption of blood or forfeiture of estate. The gold and silver coin of the United States shall be equally a legal tender for all debts and obligations contracted in this State, any contract to the contrary notwithstanding.

SEC. 17. No person shall ever be imprisoned for debt except in case of fraud.

SEC. 18. No person shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same.

SEC. 19. Perpetuities and monopolies are contrary to the genius of free government, and shall never be allowed. All grants of corporate or other franchises shall be subject to legislative control, repeal, or amendment.

SEC. 20. The people shall have the right in a peaceable manner to assemble together for their common good, and apply to those invested with the powers of government for redress of grievance or other purposes, by petition, address, or remonstrance.

SEC. 21. The free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be guaranteed in this State, and no person shall be rendered incompetent to hold any office of trust or profit, or to serve as a witness or juror because of his opinion on any matter of religious belief whatever; but the liberty of conscience herein secured shall not be construed so as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State.

SEC. 22. Bigamy and the practice of polygamy are felonies and persons found guilty of either shall be punished as those convicted of other felonies.

SEC. 23. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that liberty.

SEC. 24. Elections shall be open, free and equal, and no power, civil or military, shall at any time interfere to prevent an untrammeled exercise of the right of suffrage.

SEC. 25. No property qualifications shall ever be required for any person to vote or hold office.

SEC. 26. Private property shall never be taken or damaged, except for public use; and not then without due compensation therefor.

SEC. 27. The following are declared to be public uses: Private ways of necessity, and for reservoirs, drains, flumes, ditches, roads, railroads, tramways, telephone and telegraph lines, pipe lines, sewers, electric lines, and bucket lines, on or across the lands of others for the purpose of agriculture, mining, milling, domestic, live stock, or sanitary purposes.

SEC. 28. No lottery shall ever be permitted in this State.

SEC. 29. The right of way over mountain passes, and through cañons is granted to all upon such terms and regulations as may be prescribed by law.

SEC. 30. The railroads of this State are declared to be public highways.

SEC. 31. No person shall be imprisoned for the purpose of securing his testimony longer than may be necessary to take his deposition, and then only when he fails to give bail to attend the taking of said deposition. Depositions so taken, if in presence of a defendant and his counsel, may be used in evidence.

SEC. 32. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

ARTICLE III.

EXECUTIVE DEPARTMENT.

SECTION 1. The executive department of this State shall consist of a governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public instruction, all of whom shall hold their offices for a term of four years, and until their successors shall be elected and qualified, each of whom shall, during his term of office, reside and keep his office and the public records and papers belonging thereto, at the seat of government.

SEC. 2. The chief executive power of the State shall be vested in the governor.

SEC. 3. No person shall be eligible to the office of governor who has not been a citizen of the United States for a period of ten years, and of this State or Territory for a period of four years prior to his election, and who has not attained the age of thirty years, prior thereto.

SEC. 4. The governor, secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public instruction shall be elected by the qualified electors of the State at large at the time and place of choosing members of the legislature.

SEC. 5. The returns of each election therefor shall be made in such manner as is, or may be, prescribed by law. The person having the highest number of votes for each of the respective offices shall be declared duly elected thereto: but if two or more shall be equal and highest in votes for the same office, one of them shall be elected by the joint vote of both houses of the legislature, at its next session after the election at which such tie vote occurred, and a majority of the votes of all the members elected to both houses shall be necessary to a choice.

SEC. 6. The governor shall be commander-in-chief of the military forces of the State, except when they are called into service of the United States, and he may call out such forces to execute the laws, suppress insurrection, and repel invasion. He shall have power to convene the legislature on extraordinary occasions, and shall state the purposes for which the legislature is convened, and the legislature shall be limited in its actions, when so convened, to the purposes so stated. He shall, at the commencement of each session of the legislature, communicate to the same, by message, information of the condition of the State, and recommend such measures as he shall deem expedient.

SEC. 7. The governor may at any time require information or reports in writing, from the officers of the executive department, on any subject pertaining to the duties of their respective offices, and he may, also, at any time require information or reports in writing from all officers and managers of State institutions upon any subject, relating to the duties of their respective offices, the condition, management, and expenses of their respective offices and institutions, and all such reports or information in writing, hereinbefore named, shall be under oath. And the governor may, at any time he deems it necessary, investigate and report upon the condition of any executive office or State institution. And the governor shall

have power to require any of the officers above named, for good cause, to execute and file in the proper office, additional bonds, in such amount and in such manner as may be provided by law.

SEC. 8. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed.

SEC. 9. He shall have power to remit fines and forfeitures, and to grant reprieves, commutations, and pardons after conviction, except in cases of impeachment and treason, in such manner as may be prescribed by law, but he shall set forth in writing, fully, the grounds of all such remissions, reprieves, commutations, and pardons, and report the same to the legislature at its next session after the same are made.

SEC. 10. He shall transact all necessary business with the officers of the Government, civil and military, appertaining to business concerning the State.

SEC. 11. Every bill which has been passed by the legislature shall, before it becomes a law, be presented to the governor. If he approves it, he shall sign it; but if not, he shall return it to the house in which it originated, with his objections thereto, which house shall enter the objections at large upon the journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall be likewise reconsidered, and if it be approved by two-thirds of the members elected to that house, it shall become a law, but in all such cases the vote of the two houses shall be determined by the yeas and nays, and the names of the members of each house voting for and against the bill, shall be entered upon the journals of each house respectively. If any bills be not returned by the governor within ten days after its presentation to him, the same shall become a law, unless the legislature prevents its return by adjournment, in which case it shall become a law, unless he shall, within ten days after such adjournment, file the same, with his objections, in the office of secretary of state.

SEC. 12. The governor shall, by and with the advice and consent of the senate, appoint and commission all State officers whose election is not provided for herein or by law, and he may remove any officer appointed by him, or by him with the advice and consent of the senate. When any office from any cause becomes vacant, and no mode is provided by this constitution or by law for filling such vacancy, the governor shall have power to fill the same by appointment.

SEC. 13. If the governor be impeached, displaced, resign, or die, or from any other cause whatever shall become incapable, disqualified, or incompetent to perform the duties of his office, the secretary of state shall act as governor until such vacancy be filled, or the disability removed; and in case the secretary of state shall also be disqualified from performing such duties, then the president of the senate shall assume them and act as governor until the disability be removed, or the vacancy filled.

SEC. 14. Any governor of this State who asks, receives, or agrees to receive any bribe, upon any understanding that his official opinion, judgment, or action shall be influenced thereby, or who gives, or offers to give, or promises his official influence in any manner whatever, in consideration that any member of the legislature shall give his official vote or influence on any particular side of any subject or matter upon which he is required to act in his official capacity, or who menaces, or attempts to menace any such member by the threatened use of his veto power, or with the threatened use of his official power in any manner whatever, with the intent to influence the official action of said member, shall be punished in the manner now, or that may hereafter be provided by law, and in addition thereto, upon conviction, shall forfeit all right to hold or exercise any office of trust or honor in this State.

SEC. 15. A seal of State shall be kept by the secretary of state, used by him officially or under his official sanction, and called the great seal of Arizona.

SEC. 16. All grants and commissions shall be issued "in the name and by the authority of the State of Arizona," signed by the governor and attested by the secretary of state, and sealed with the great seal of the State.

SEC. 17. The powers and duties of the secretary of state, State auditor, State treasurer, attorney-general, and superintendent of public instruction shall be such as are or may be prescribed by law.

SEC. 18. Until otherwise provided by law, the governor shall receive an annual salary of twenty-five hundred dollars; the secretary of state, two thousand dollars; the State auditor, one thousand dollars; the State treasurer, one thousand dollars; the attorney-general, one thousand dollars; and the superintendent of

public instruction, one thousand dollars; and the salaries of said officers or of any State or county officer shall not be increased or diminished during their term of office, and any and all fees and profits arising from any of said State offices shall be covered into the State treasury as may be provided by law.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative power shall be vested in a senate and house of representatives, which shall be designated the legislature of the State of Arizona.

SEC. 2. Senators shall be elected for the term of four (4) years and representatives for the term of two (2) years. The senators elected at the first election shall be divided by lot into two classes as nearly equal as may be. The seats of senators of the first class shall be vacated at the expiration of the first two years and of the second class at the expiration of four years. No person shall be a senator who has not attained the age of twenty-five years, or a representative who has not attained the age of twenty-one years, and who is not a citizen of the United States and of this State, and who has not resided in this State at least two years and in the county or district six months next preceding his election.

SEC. 3. Each county shall constitute a senatorial and representative district; the senate and house of representatives shall be composed of members elected by the legal voters of their counties respectively, every two (2) years. They shall be apportioned among the said counties as nearly as may be according to the number of the inhabitants thereof. Each county shall have at least one senator and one representative; but at no time shall the number of members of the house of representatives be less than twice, nor greater than three times the number of members of the senate. The senate and house of representatives first elected in pursuance of this constitution, shall consist of twelve and twenty-four members respectively.

SEC. 4. When vacancies occur in either house by death, resignation, or otherwise such vacancy shall be filled for the remainder of the term by special election, to be called in such manner as may be prescribed by law.

SEC. 5. Members of the senate and house of representatives shall be elected on the day provided by law for the general election of a member of Congress, and their term of office shall begin on the first Monday of January thereafter.

SEC. 6. Each member of the first Legislature, as a compensation for his services shall receive five dollars for each days' attendance, and fifteen cents for each mile traveled in going to and returning from the seat of government to his residence by the usual traveled route, and shall receive no other compensation, perquisite, or allowance whatever. No session of the Legislature after the first, which may be ninety days, shall exceed sixty days' duration, Sundays and holidays included, except in trials by impeachment. After the first session, the compensation of the members of the Legislature shall be as provided by law; but no Legislature shall fix its own compensation.

SEC. 7. The Legislature shall meet at the seat of government at 12 o'clock, noon, on the second Tuesday of January, next succeeding the general election provided by law, and at 12 o'clock noon, on the second Tuesday of January of each alternate year thereafter, and at other times when convened by the governor.

SEC. 8. No senator or representative shall, during the term for which he was elected, be appointed to any civil office under the State, and no member of Congress or other person holding an office (except that of notary public or an office in the militia) under the United States or this State shall be a member of either house during his continuance in office.

SEC. 9. No member of either house shall, during the term for which he was elected, receive any increase of salary or mileage under any law passed during that term.

SEC. 10. The senate shall, at the beginning of each regular session and at such other times as may be necessary, elect one of its members president. The house of representatives shall elect one of its members speaker. Each house shall choose its other officers and shall judge of the election returns and qualifications of its members.

SEC. 11. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as each house may prescribe.

SEC. 12. Each house shall have the power to determine its rules of procedure and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and, with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the Legislature of a free State; but no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 13. Each house shall keep a journal of its proceedings, and may, in its discretion, from time to time, publish the same, except such part as requires secrecy, and the yeas and nays on any question shall, at the request of two members, be entered on the journal.

SEC. 14. The sessions of each house and of the committee of the whole shall be open, unless the business is such as requires secrecy.

SEC. 15. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 16. The members of the Legislature shall, in all cases except treason, felony, violation of their oaths of office, and breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

SEC. 17. The sole power of impeachment shall rest in the house of representatives; the concurrence of a majority of all the members being necessary to the exercise thereof. Impeachment shall be tried by the Senate, sitting for that purpose, and the senators shall be upon oath or affirmation to do justice according to law and evidence. When the governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without a concurrence of two-thirds of the senators elected.

SEC. 18. The governor and other State and judicial officers, except justices of the peace, shall be liable to impeachment for high crimes and misdemeanors, or malfeasance in office, but judgment in such cases shall only extend to removal from office and disqualification to hold any office of honor, trust, or profit under the laws of the State. The party, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, and punishment according to law.

SEC. 19. All officers, not liable to impeachment, shall be subject to removal for misconduct or malfeasance in office, in such manner as may be provided by law.

SEC. 20. No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either house, as to change its original purpose.

SEC. 21. The enacting clause of every law shall be as follows: "Be it enacted by the Legislature of the State of Arizona."

SEC. 22. No bill for the appropriation of money, except for the expenses of the government, shall be introduced within five (5) days of the close of the session, except by unanimous consent of the house in which it is sought to be introduced.

SEC. 23. No bill shall be considered or become a law unless referred to a committee, returned therefrom and printed for the use of the members; nor shall any bill have the force of a law until it has been read at length on three several days in each house; but in case of imperative public necessity, which necessity must be stated in a preamble, or in the body of the bill, two-thirds of the house in which the bill may be pending may suspend this rule, the yeas and nays being taken on the question of suspension, and entered upon the journals.

SEC. 24. No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which subject shall be clearly expressed in its title, but if any subject is embraced in any act which is not expressed in its title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 25. No bill shall become a law, except by a vote of a majority of all the members elected to each House, nor, unless on its final passage, the vote be taken by ayes and nays and the names of those voting be entered on the journal.

SEC. 26. No law shall be revised or amended or the provisions thereof extended by reference to its title only, but so much thereof as is revised, amended, or extended shall be re-enacted and published at length.

SEC. 27. The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say: For granting divorces; laying out, open-

ing, altering, or working roads or highways; vacating roads, town plats, streets, alleys, or public grounds; locating or changing county seats, regulating county or township affairs; the incorporation of cities, towns, or villages, or changing or amending the charters of any cities, towns, or villages; regulating the practice in courts of justice; regulating the jurisdiction and duties of justices of the peace, police magistrates, or constables; changing the rules of evidence in any trial or inquiry; providing for changes of venue in civil or criminal cases; declaring any person of age; the limitation of civil actions giving effect to any informal or invalid deed; summoning or impaneling grand or petit juries; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or bridges or toll roads; chartering banks, insurance companies, and loan and trust companies; remitting fines, penalties, or forfeitures; creating, increasing, or decreasing fees, per centages, or allowances of public officers; changing the law of descent; granting to any corporation, association, or individual the right to lay down railroad track or any special or exclusive privilege, immunity, or franchise whatever, or amending existing charter for such purpose; the punishment of crimes; changing names of persons or places; the assessment or collection of taxes; or law affecting estates of deceased persons, minors, or others under legal disabilities; extending the time for the collection of taxes; refunding money paid into the State Treasury; relinquishing or extinguishing in whole or in part the indebtedness, liabilities, or obligations of any person or corporation to this State, or to any municipal corporation therein; legalizing, except as against the State, the unauthorized or invalid act of any officer; exempting property from taxation; restoring to citizenship persons convicted of infamous crime; authorizing the creation, extension, or impairing of liens; creating offices or prescribing the powers or duties of officers in counties, cities, townships, or school districts; or law authorizing the adoption or legitimation of children. In all other cases where a general law can be made applicable, no special law shall be enacted.

SEC. 28. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislature immediately after their titles have been publicly read and the fact of signing shall be at once entered upon the journal.

SEC. 29. The first legislature convened under this constitution shall have no more than seven clerks, two sergeants-at-arms, two pages, and two doorkeepers, whose compensation shall not exceed five dollars each per day. Said legislature shall prescribe by law the number and compensation of the officers and employés of each house, and no payment shall be made from the State treasury, or be in any way authorized to any such person except to an acting officer or employé elected or appointed in pursuance of law. No law passed increasing the number or compensation of employés shall take effect during the session in which it was passed.

SEC. 30. No bill shall be passed giving an extra compensation to any public officer, servant, or employé, agent or contractor after services have been rendered or contract made.

SEC. 31. All stationery, printing, paper, fuel, and lights used in the legislative and other departments of government shall be furnished and the printing and binding of the laws, journals, and department reports and other printing and binding and the repairing and furnishing of the halls and rooms used for the meeting of the legislature and its committees shall be performed under contract, to be given to the lowest responsible bidder below such maximum price and under such regulations as may be prescribed by law. No member or officer of any department of the government shall be in any way interested in any such contract, and all such contracts shall be subject to the approval of the governor and State treasurer.

SEC. 32. Except as otherwise provided in this constitution no law shall extend the term of any public officer or increase or diminish his salary or emoluments after his election or appointment, but this shall not be construed to forbid the legislature from fixing the salaries or emoluments of those officers first elected or appointed under this constitution, if such salaries or emoluments are not fixed by its provisions.

SEC. 33. All bills for raising revenue shall originate in the house of representatives, but the senate may propose amendments as in case of other bills.

SEC. 34. The general appropriation bill shall embrace nothing but appropria-

tions for the ordinary expenses of the legislative, executive, and judicial departments of the State, interest on public debt, and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.

SEC. 35. Except for interest on public debt money shall be paid out of the treasury only on appropriations by the legislature, and in no case otherwise than upon warrant drawn by the proper officer in pursuance of law.

SEC. 36. No appropriation shall be made for charitable, industrial, educational, or benevolent purposes, to any person, corporation, or community not under the absolute control of the State, nor to any denominational or sectarian institution or association.

SEC. 37. The legislature shall not delegate to any special commissioner, private corporation, or association any power to make, supervise, or interfere with any municipal improvements, moneys, property, or effect, whether held in trust or otherwise, nor to levy taxes, nor to perform any municipal functions whatever.

SEC. 38. No act of the legislature shall authorize the investment of trust funds by executors, administrators, guardians, or trustees in the bonds or stock of any private corporation.

SEC. 39. The legislature shall have no power to pass any law authorizing the State, or any county in the State or municipal corporation, to contract any debt or obligation in aid of any private enterprise, nor to give or loan its credit to or in aid of the same; but neither the State nor any political subdivision thereof shall be prohibited from loaning its credit or giving aid to the construction and maintenance of railroad, toll roads, street railways, canals, reservoirs, water works, sewers, or bridges; provided that the proposition to lend such aid shall first be submitted to a vote of the qualified electors of the political subdivision affected thereby, and two-thirds of those voting shall vote in favor thereof.

SEC. 40. Every order, resolution, or vote in which the concurrence of both houses may be necessary, except on the question of adjournment or relating solely to the transaction of the business of the two houses, shall be presented to the governor, and before it shall take effect be approved by him or, on being disapproved, be repassed by two-thirds of both houses, as prescribed in the case of a bill.

SEC. 41. A member who has a personal or private interest in any measure or bill proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon.

APPORTIONMENT.

SECTION 1. One Representative in the Congress of the United States shall be elected from the State at large, at the first general election under this constitution, and thereafter at such times and places and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress, the legislature shall divide the State into Congressional districts accordingly.

SEC. 2. Until an apportionment of senators and representatives is otherwise provided by law, they shall be divided among the several counties of the State in the following manner: Apache County. one member of the senate and two members of the house of representatives; Coconino, one senator and one representative; Cochise, one senator and three representatives; Gila, one senator and one representative; Graham, one senator and two representatives: Maricopa, one senator and four representatives; Mohave, one senator and one representative; Pima, one senator and four representatives; Pinal, one senator and two representatives; Yavapai, one senator and three representatives; Yuma, one senator and one representative. And the several counties of the State shall elect one senator at large.

ARTICLE V.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State of Arizona shall be vested in one supreme court, district courts, probate courts, justices of the peace, and such inferior courts for incorporated cities, towns, and villages as may be provided by law.

SUPREME COURT.

SEC. 2. The supreme court shall consist of three judges, and shall have original jurisdiction in quo warranto, in mandamus and habeas corpus, and appellate

jurisdiction in all other cases. One of said judges shall be chief justice; two shall constitute a quorum, and the concurrence of the two shall be necessary to every decision.

SEC. 3. The judges of the supreme court shall be elected by the qualified electors of the State at large, and, except the first election for judges under this constitution, said judges shall be elected at general elections.

SEC. 4. The term of office of the judges of the supreme court, except as in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

SEC. 5. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot, so that one shall hold his office for the term of two years, one for the term of four years, and one for the term of six years from the first Monday in January after the constitution takes effect. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of the Territory and filed in his office, unless the secretary of the State of Arizona shall have entered upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest time to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice, and shall preside at all terms of the supreme court, and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

SEC. 6. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of the judges, and whose duties and emoluments shall be prescribed by law and by rules of the supreme court not inconsistent with law. The legislature shall make provisions for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

SEC. 7. No person shall be eligible to the office of judge of the supreme or district courts unless he be learned in the law, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in the State or Territory of Arizona three years next preceding his election and in the district one year.

SEC. 8. No duties shall be imposed by law upon the supreme court or any of the judges thereof except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

SEC. 9. The style of process shall be: "The State of Arizona." All prosecutions shall be carried on in the name and by the authority of the State of Arizona, and conclude: "against the peace and dignity of the State of Arizona." There shall be at least three terms of the supreme court in each year, as may be provided by law. Until the law does so provide, the court may, by an order entered of record, fix the time and places of such terms of court.

SEC. 10. Any vacancy happening, by death, resignation, or otherwise, in the office of judge of the supreme court, shall be filled by appointment by the governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

SEC. 11. In case a judge of the supreme court shall be in any way interested in a cause brought before said court, the remaining judges of said court shall call one of the district judges not interested to sit with them on the hearing of said cause.

DISTRICT COURTS.

SEC. 12. Until otherwise provided by law, the State shall be divided into three judicial districts. The counties of Graham, Cochise, and Pima shall constitute the first district; the counties of Yuma, Maricopa, Gila, and Pinal shall constitute the second district, and the counties of Mohave, Yavapai, Coconino, and Apache shall constitute the third district.

SEC. 13. One judge shall be elected from each district, who shall hold his office for a term of four years. The term of the first district judges elected under this constitution shall terminate four years after the first day of January after this constitution takes effect.

SEC. 14. The district courts shall have original general jurisdiction of all causes in law and equity, and such appellate jurisdiction as may be provided by law, and shall hold at least two terms each year in each county.

SEC. 15. Appeals and writs of error shall be allowed from the district courts to the supreme court from all final determinations and from all determinations affecting substantial rights.

SEC. 16. Any judge of the supreme court may, in case of emergency, sit as a district judge. A judge of the district court shall be designated by the supreme court to sit in the supreme court, to hear and determine appeals from causes heard before a judge of the supreme court sitting as a district judge.

SEC. 17. The compensation of the supreme judges shall be $4,000, and district judges $3,500 per annum.

SEC. 18. The legislature may provide that at the end of the first term of office of district judges herein provided the number of judicial districts may be increased by one. An increase may be made thereafter, but not before four years have elapsed since the last increase and by not more than one district at the time. Each increase shall be only when two-thirds of each house shall concur therein. Such increase of districts shall not affect the official term of any judge. Elections for judges of such new districts shall be only when the judges of the other districts are elected.

SEC. 19. A judge of the supreme or district court shall not practice law in any court.

PROBATE COURTS.

SEC. 20. There shall be established in each county a probate court, which shall be a court of record, open at all times, and holden by one judge elected by the electors of the county, and whose term of office shall be two years.

SEC. 21. The probate court shall have original jurisdiction in all probate and testamentary matters, the appointment of administrators and guardians, the settlement of accounts of executors, administrators, and guardians, and such other probate jurisdiction as is now or may be conferred upon it, and in proceedings for the collection of taxes and assessments: *Provided*, That the legislature may, by local or general law, increase the jurisdiction of probate courts as follows, to wit: By giving said court in any county concurrent jurisdiction with the district court in all actions at law where the amount in controversy does not exceed $1,000, and where the title to real estate is not in question, and in all criminal actions below the grade of felony.

SEC. 22. Appeals from all matters of probate shall be to the district court, where the trial shall be *de novo*.

SEC. 23. The qualifications of the judges of probate courts in counties where the jurisdiction of said courts shall have been increased, shall be the same as those of a district judge, except that he shall be a resident of the county at the time of his election.

JUSTICES OF THE PEACE.

SEC. 24. The legislature shall provide for the election of justices of the peace in each county in this State. They shall have jurisdiction in all actions at law where the amount in controversy, exclusive of costs, does not exceed $300, and where the title to real estate is not in issue, and shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law.

SEC. 25. Appeals may be taken to either the district court or the probate court, as may be provided by law. Such actions on appeals shall be tried *de novo*.

SEC. 26. Until otherwise provided by law, the judges of the district court by an order entered of record in each county, may fix the time of holding court in each county. The district court shall always be open for business when the judge is present in court.

SEC. 27. There shall be elected in each county a district attorney, who shall be learned in the law, and who shall hold his office for a term of two years, the first term ending two years after the first day of January after this constitution takes effect, and who shall perform such duties and receive such compensation as may be prescribed by law.

ARTICLE VI.

TAXATION AND REVENUE.

SECTION 1. The fiscal year shall commence on the first Monday in June in each year, unless otherwise provided by law.

SEC. 2. All lands and improvements thereon shall be listed for assessment, valued for taxation, and assessed separately, except as hereinafter provided.

SEC. 3. For State revenue there shall be levied annually a tax not to exceed three (3) mills on the dollar of the assessed valuation of the property in the State, except for the support of State, educational, and charitable institutions, the payment of the State debt, and the interest thereon.

SEC. 4. For county revenue there shall be levied annually a tax not to exceed two per centum on the dollar for all purposes, including general school tax, except for the payment of its public debt and the interest thereon and exclusive of State revenue. An additional tax of $2 for each male person between the ages of 21 years and 60 years, inclusive, shall annually be levied for county school purposes, unless otherwise provided by law.

SEC. 5. No incorporated city or town shall levy tax to exceed 8 mills on the dollar in any one year, except for the payment of its public debt and the interest thereon.

SEC. 6. There shall be annually assessed and collected in the same manner as other State revenue may be assessed and collected, and returned to the State treasurer, a tax of one mill upon each dollar's worth of taxable property, in addition to all other taxes, to be applied as follows, viz: The fund so created shall be kept separate and shall, annually, on the first day of January, be apportioned and paid over pro rata upon all such State indebtedness as may for that purpose be presented by the holders of the same, to be entered as a credit upon, and to that extent, in extinguishment of the principal of said indebtedness. If no indebtedness be presented the fund shall be a sinking fund to be devoted to the extinguishment of the principal of the State debt. When sufficient money has been accumulated in the sinking funds to liquidate outstanding indebtedness this section shall cease to be operative. And there shall be annually assessed and collected in each county whose debt exceeds in the aggregate fifty thousand ($50,000) dollars, in like manner, a tax of one-half mill, as aforesaid, the fund to be applied in the same way in extinguishment of county debts. The legislature may provide by law for the investment of any balances of the sinking funds in the State and county securities until the funds can be devoted to extinguishment of the indebtedness.

SEC. 7. The State treasurer shall keep a separate account of each fund in his hands, and shall, at the end of each quarter of the fiscal year, report to the governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, the place where the same are kept or deposited, and the number and amount of every warrant received, and the number and amount of every warrant paid therefrom during the quarter. Willfully swearing falsely to any such report shall be deemed perjury. The governor shall cause every such report to be immediately published in at least one newspaper, printed at the seat of government, and otherwise as the legislature may require. The legislature may provide by law for further regulations for the safe keeping and management of the public funds in the hands of the treasurer. But notwithstanding any such regulations the treasurer and his sureties, in all cases, shall be held responsible therefor.

SEC. 8. The making of profit, directly or indirectly, out of State, county, city, town, school district, or other public fund, or using the same for any purpose not authorized by law, by any public officer, shall be deemed a felony, and shall be punished as provided by law.

SEC. 9. There shall be a State board of equalization, composed of the secretary of state, State auditor, and treasurer. The duties of the State board of equalization shall be to assess and equalize, at their actual value, the franchises, roadways, roadbeds, rails and rolling stock, and all other property used in the operation of all railroads and other common carriers, except machine shops, rolling mills, hotels, and station houses in this State, which shall be assessed by the local assessor in the several counties where situated. Such assessed valuation shall be apportioned to the counties in which said roads and common carriers are located, as a basis for taxation of such property: *Provided*, That the assessment so made shall not apply to incorporated towns and cities. Said board shall perform such other duties as may be prescribed by law.

SEC. 10. There shall be a county board of equalization in each county of this State, composed of the board of supervisors of the respective counties. The duty of the county board of equalization shall be to adjust and equalize valuations of property made, listed, and reported by the assessor of the respective counties, and such other duties as may be prescribed by law.

SEC. 11. All property except as in this constitution otherwise provided, shall be uniformly assessed for taxation, and the legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal. License taxes shall be as hereafter provided by law.

SEC. 12. The property of the United States, the State, counties, cities, towns, school districts, municipal corporations, public libraries, lots with the buildings thereon used exclusively for religious worship, and public cemeteries, shall be exempt from taxation, and such other property as the legislature by a two-thirds vote of each house may by general law provide.

SEC. 13. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

SEC. 14. The power of taxation shall never be surrendered or suspended, by any grant or contract to which the State or any county or other municipal corporation shall be a party.

ARTICLE VII.

PUBLIC INDEBTEDNESS.

SECTION 1. The State of Arizona shall not in any manner create any indebtedness, excluding debts existing at the adoption of this constitution, exceeding one per centum on the assessed value of the taxable property in the State, as shown by the last general assessment for taxation preceding, except to suppress insurrection or to provide for the public defense.

SEC. 2. No debt in excess of the taxes for the current year shall in any manner be created in the State of Arizona, unless the proposition to create such debt shall have been submitted to a vote of the people, and by them approved, except to suppress insurrection or to provide for the public defense.

SEC. 3. No county in the State of Arizona shall in any manner create any indebtedness, excluding debts existing at the adoption of this constitution, exceeding two per centum on the assessed value of taxable property in such county, as shown by the last general assessment preceding: *Provided, however*, That any county, city, town, village, or other subdivision of the State of Arizona, may bond its public debt existing at the time of the adoption of this constitution.

SEC. 4. No debt in excess of the taxes for the current year shall in any manner be created by any county or subdivision thereof, or any city, town or village, or any subdivision thereof, in the State of Arizona, unless the proposition to create such debt shall have been submitted to a vote of the people thereof, and by them approved.

SEC. 5. No city, town or village, or any subdivision thereof, or any subdivision of any county of the State of Arizona, shall in any manner create any indebtedness exceeding two per centum on the assessed value of the taxable property therein: *Provided, however*, That any city, town or village may be authorized to create an additional indebtedness not exceeding four per centum on the assessed value of the taxable property therein, as shown by the last preceding general assessment for the purpose of building sewerage therein. Debts contracted for supplying water to such city or town, and the debt existing at the time of the adoption of this constitution, are excepted from the operation of this section.

SEC. 6. No money shall be paid out of the State treasury except upon appropriation by law and a warrant drawn by the proper officer, and no bills, claims, accounts, or demands against the State, or any county or political subdivision thereof shall be audited, allowed or paid until a full itemized statement in writing, verified by affidavit, shall be filed with the officer or officers whose duty it may be to audit the same.

SEC. 7. No bond or evidence of indebtedness of the State shall be valid unless the same shall have indorsed thereon a certificate signed by the auditor and secretary of state, that the bond or evidence of debt is issued pursuant to law, and is within the debt limit. No bond of any county, or bond of any township, or other political subdivision, shall be valid unless the same shall have indorsed thereon a certificate signed by the chairman of the board of supervisors, or other officer authorized by law to sign such certificate, stating that said bond is issued pursuant to law, and is within the debt limit.

ARTICLE VIII.

EDUCATION

SECTION 1. The legislature at its first session after the adoption of this constitution, shall establish and maintain a uniform system of free common schools.

SEC. 2. The schools shall be open to all children of the State of Arizona, excepting the children of Indians not taxed.

SEC. 3. All common schools, universities, and other educational institutions, for the support of which lands have been granted to the State, or which are supported by a public tax, shall remain under the absolute and exclusive control of the State, and no money raised for the support of the public schools of the State shall be appropriated or used for the support of any educational institution, wholly, or in part, under sectarian or ecclesiastical control. No religious test or qualification shall ever be required of any person as a condition of admission into any public educational institution of the State, either as teacher or student. No sectarian or religious tenets or doctrines shall ever be taught in the public schools, nor shall any books, papers, tracts, or documents of a political, sectarian, or denominational character be used or introduced in any school established under the provisions of this article. All public school exercises in the State shall be conducted in the English language, and all teachers employed in the educational institutions under the control of the State shall be citizens of the United States.

SEC. 4. The general supervision of the common schools of the State shall be vested in a board of education, consisting of the governor, the superintendent of public instruction, and the State treasurer, the powers and duties of which shall be prescribed by law, and who shall serve as such board without compensation.

SEC. 5. A superintendent of public instruction shall be elected, whose term of office, powers, duties, and compensation shall be prescribed by law.

ARTICLE IX.

COMMON SCHOOL FUNDS AND LANDS.

SECTION 1. All proceeds of the public lands that have heretofore been, or may be hereafter, granted by the United States for the support of the school system in this State; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the State by escheat; the proceeds of any gifts and donations to the State for the common schools, not otherwise appropriated by the terms of the gift; all moneys which shall be paid by persons as an equivalent for exemption from military duty; together with such other means as the legislature may provide, by tax or otherwise, shall be inviolably appropriated to the support of the common schools: *Provided*, That the proceeds of all lands that have heretofore, or may hereafter be appropriated or granted for the maintenance of the University of Arizona, shall be inviolably applied to the specific use of the original grant: *Provided*, That the proceeds of all lands that have been heretofore, or may hereafter be appropriated or granted for the maintenance of Territorial normal schools, shall be inviolably applied to the specific use of the original grant.

SEC. 2. The legislature shall provide for the disposal of the lands heretofore granted or which may hereafter be granted to the State for educational purposes, by lease and sale, the proceeds of which shall constitute a permanent and inviolate fund, the interest of which, only, shall be used, and for the equitable distribution of such interest within the counties of the State, in proportion to the children of school age thereof. Said proceeds, with any unexpended interest, or rental, shall be invested in bonds of the United States, bonds of the State of Arizona, bonds of school corporations, or in first mortgage on farm lands within the State, not exceeding in amount one-third the actual value of any subdivision on which the same may be loaned.

SEC. 3. The custodians of said funds shall be the same as provided by law for State and county funds, and any losses shall be made good by the State, principal and interest.

SEC. 4. The State board of education shall cause all the lands to be appraised by sworn appraisers, part of whom at least shall be residents of the county wherein the lands to be appraised are situate, and after all such lands shall have been appraised, said board shall designate for sale such lands as they may think most advantageous for the public interest to be sold, and classify the same by the uses to which they may be applied. But not more than one-fourth of the lands belonging to any one of the said classes shall be sold during any period of five years, commencing with the date on which this constitution goes into effect.

SEC. 5. The legislature shall prescribe by law the limit to the quantity of land which may be leased or sold to any one individual, company, or corporation, and no laws shall ever be passed granting to any person, corporation, or association any privilege, by reason of occupation or cultivation of any school lands by said person, corporation, or association, subsequent to the survey thereof of the

General Government. No claim for the occupation or cultivation of any school lands shall ever be recognized, nor shall such occupation or cultivation of any school lands ever be used to diminish, either directly or indirectly, the sale or rental value of said lands. But the said board shall cause to be appraised the permanent improvement made on any school lands, and the value of the land separately. When such land is sold the purchaser thereof, in addition to the value of the land paid to the State, shall pay to the owner of such permanent improvements the amount of their appraised value. The owner of such permanent improvements shall have the option to become the purchaser of said lands at the highest offered price and on such terms as the legislature may by general law provide.

SEC. 6. No land shall be leased for a period longer than ten years, nor shall any land be sold for less than the appraised value, and in no case for less than $10 per acre, unless otherwise provided in the enabling act admitting Arizona as a State, nor shall any land be sold or leased in any other manner than at public auction, and in accordance with such rules and regulations as may be prescribed by law.

ARTICLE X.

SUFFRAGE.

SECTION 1. Every male citizen of the United States of the age 21 years and upwards (except idiots, lunatics, soldiers, seamen, or mariners in the Army or Navy of the United States, Indians not taxed, and persons convicted of any infamous or capital crime), who has resided in the State or Territory one year and in the county wherein such residence is located ninety days next preceding any election, shall be entitled to vote at such election: *Provided*, That in school elections there shall be no denial of the elective franchise on account of sex.

SEC. 2. Nothing herein shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution.

SEC. 3. The legislature shall be empowered to make further extensions of suffrage hereafter, at its discretion, to all citizens of mature and sound mind not convicted of any capital or infamous crime, without regard to sex. But no law extending or restricting the right of suffrage shall be enforced until adopted by a majority of the electors of the State voting at a general election.

SEC. 4. The mode and manner of holding elections and making returns thereof shall be as they now are, or may hereafter be prescribed by law.

ARTICLE XI.

SEAT OF GOVERNMENT.

The seat of government shall be and remain permanent at the city of Phœnix, in the county of Maricopa, until otherwise ordered by a two-thirds (⅔) vote of the legislature and a majority vote of the people legally authorized to vote at any general election. Whenever the question of removal shall have been submitted to the people as herein provided, it shall not again be submitted until after the term of ten (10) years, and in the manner herein prescribed.

ARTICLE XII.

MILITIA.

SECTION 1. The militia of the State shall consist of all able-bodied male citizens of the State between the ages of 18 and 45 years, except such as are exempted by the laws of the United States or the State. But all citizens having scruples of conscience averse to bearing arms shall be excused therefrom upon such conditions as shall be prescribed by law.

SEC. 2. The legislature may provide by law for the enrollment, equipment, and discipline of the militia, to conform as nearly as practicable to the regulations for the government of the armies of the United States.

SEC. 3. All militia officers shall be commissioned by the governor, the manner of their selection to be provided by law, and may hold their commission for such period of time as the legislature may provide.

SEC. 4. No military organization under the laws of the State shall carry any banner or flag representing any sect or society or the flag of any nationality but that of the United States.

ARTICLE XIII.

NAME AND BOUNDARY.

SECTION 1. The name of this State shall be "Arizona."

SEC. 2. The boundaries of this State are, and shall remain as follows: Beginning at the southwest corner of the State of Colorado, the same being the northwest corner of the Territory of New Mexico as established by act of Congress February 24, 1863; thence west with the thirty-seventh parallel of north latitude to its intersection with the east boundary line of the State of Nevada; thence south with that boundary line to its intersection with the center of the Colorado River; thence following down the center of said river to a point on the boundary line established by treaty between the United States and the Republic of Mexico, dated December 30, 1853; thence easterly, following said treaty line to its intersection with 109 degrees 2 minutes 59 seconds 25-100 of longitude west of Greenwich; thence north with that degree to the place of beginning.

SEC. 3. There shall be a seal of the State, which shall be kept by the secretary of state, and shall be called the "Great seal of the State of Arizona," and the seal of the Territory of Arizona shall be the seal of the State until otherwise provided by law.

ARTICLE XIV.

COMPACT WITH THE UNITED STATES.

SECTION 1. The State of Arizona is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

SEC. 2. The legal debts and liabilities of the Territory shall be assumed and paid by this State.

SEC. 3. The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and the said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands or other property belonging to citizens of the United States residing without this State, shall never be taxed at a higher rate than the lands or other property belonging to residents thereof; that no tax shall be imposed by the State on lands or property therein, belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein shall preclude the State from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person or source, a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted, from taxation; but all such lands shall be exempt from taxation by this State so long and to such extent as such act of Congress may prescribe.

ARTICLE XV.

COUNTY GOVERNMENT.

SECTION 1. The several counties in the Territory of Arizona as they shall exist at the time of the admission of said Territory as a State, are hereby declared to be the counties of the State of Arizona.

SEC. 2. The legislature shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines; but no new county shall be formed that does not contain at least one thousand square miles, and shall leave the county or counties from which it is formed to contain not less than one thousand square miles each, and that shall also contain within the limits of said new county property of the value of one million dollars as shown by the last preceding tax returns; and not then unless the old county or counties from which it is formed shall each be left to contain at least one and one-half million dollars of taxable property as shown by said last tax returns. And no new county shall be organized nor shall any old county be so reduced as to contain a population of less than fifteen hundred actual and bona fide inhabitants.

SEC. 3. Every new county shall assume and be holden for its pro rata of the indebtedness of the county or counties from which it may be formed.

SEC. 4. The legislature shall establish, subject to this article, a system of county governments which shall be uniform throughout the State; and by general laws shall provide for township and precinct organizations and government.

SEC. 5. The legislature shall provide by general and uniform laws for the election, biennially, in each of the several counties of this State, of a board of supervisors, a sheriff, who shall be *ex officio* tax assessor until otherwise provided by law.

A county treasurer, who shall be *ex officio* tax collector until otherwise provided by law.

A probate judge, who shall be *ex officio* county superintendent of public schools.

A county clerk, who shall be clerk of the district court and county recorder until otherwise provided by law, and a district attorney.

The legislature shall provide for the strict accountability of county, township, precinct, and municipal officers for all money and fees which may be collected by them or shall officially come into their hands.

SEC. 6. The sheriff, clerk, and *ex officio* recorder may be empowered by the county board of supervisors to appoint such deputies and clerical assistance as the business of their offices may require; and said deputies and clerical assistance shall receive such compensation as may be fixed by the board of supervisors.

SEC. 7. The officers provided for herein shall receive such compensation for their annual services as may be provided by law.

SEC. 8. The legislature shall provide by general law for such regulation of county government and the election and compensation of such county officers as may become necessary.

ARTICLE XVI.

STATE INSTITUTIONS.

SECTION 1. Educational, reformatory, and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other public institutions as the public good may require, may be established, and shall be maintained and controlled by the State, in such manner, and under such regulations, as may be prescribed by law.

SEC. 2. All property and institutions of the Territory of Arizona shall, upon the adoption of this constitution, become the property and institutions of the State of Arizona.

ARTICLE XVII.

CORPORATIONS.

SECTION 1. All existing charters or grants of special or exclusive privileges under which the corporators or grantees shall not have organized and commenced business in good faith at the time of the adoption of this constitution, shall thereafter have no validity, except such corporations or grantees whose time to organize under their charter or grant has not expired at the time of the adoption of this constitution.

SEC. 2. No charter of incorporation shall be granted, extended, changed, or amended by special laws; but the legislature shall prescribe by general law for the organization of all corporations, private, public, and municipal, hereafter to be created.

SEC. 3. The legislature, in addition to the powers granted in this constitution, shall provide by law the method whereby the court may revoke or annul any charter or incorporation existing and revokable at the time this constitution goes into effect, or that may thereafter be created, whenever it may be injurious to the citizens of the State, and in such manner that no injustice be done to the corporators or creditors.

SEC. 4. Any association or corporation organized for the purpose, shall have the right to construct and operate railroads, telegraph lines, or canals for carrying water, between any designated points within this State.

SEC. 5. All individuals, associations, or corporations shall be given equal rights of transportation by common carriers, and no undue or unreasonable discrimination shall be made in charges or facilities of said transportation by such common carrier.

SEC. 6. The right of eminent domain shall never be abridged or construed so as to prevent the legislature from taking the property and franchise of incor-

porations and subjecting them to public use the same as the property of the individual citizen.

SEC. 7. All fictitious increase of capital stock or indebtedness of corporations shall be void.

SEC. 8. Any corporation existing under the laws of the Territory prior to the adoption of this constitution may, by resolution of its directors, authenticated by the signatures of its officers and seal, elect to come under and enjoy the conditions and advantages of this article by filing said resolution in the office of the secretary of state.

SEC. 9. Any president, director, manager, cashier, or other officer of any banking institution who shall receive or assent to the reception of deposits of money after he shall have hnowledge of the fact that such banking institution is insolvent shall be individually responsible for such deposits so received and shall be punished criminally.

SEC. 10. All corporations shall always be subject to the power of the State.

ARTICLE XVIII.

WATER AND WATER RIGHTS.

SECTION 1. All natural streams and lakes within the boundaries of this State capable of being used for the purposes of navigation or irrigation are hereby declared to be the property of the State.

SEC. 2. The common-law doctrine of riparian water rights shall never be applied in this State, nor shall the right to use water heretofore lawfully appropriated to beneficial uses ever be denied.

SEC. 3. The right of the people to appropriate and use the unappropriated waters of this State for beneficial purposes shall never be denied; priority of appropriation shall give the better right always.

SEC. 4. The right of individuals or corporations to construct reservoirs and impound and appropriate the surplus and flood waters in this State, for sale, rental, domestic, stock, or any beneficial purpose, shall never be denied. The first locator of a reservoir right shall have priority. A failure to construct reservoirs and canals within a reasonable time after location, and a failure to use reasonable diligence to maintain the same so as to supply water, shall be held to work a forfeiture of such right.

SEC. 5. Every appropriator of water shall use the same reasonably and economically.

SEC. 6. The mode and manner of acquiring and exercising all of said rights shall be subject to legislative control.

SEC. 7. The legislature shall have power to authorize the organization of districts and the creation of a debt for the construction or purchasing of dams, canals, and ditches and other appliances required to supply water to land in said districts; but such debt, principal and interest, shall subject only the lands benefited or reclaimed to taxation to pay the same.

SEC. 8. The legislature shall pass laws requiring the owner or owners of every ditch or canal from which water is rented or sold to other parties, to use reasonable diligence in keeping such ditch or canal in such good condition and repair as to supply the water required.

ARTICLE XIX.

FORESTRY.

The legislature shall enact laws to prevent the destruction of and to preserve the forests on the lands of the State, and upon any part of the public domain, the control of which may be conferred by Congress upon this State.

ARTICLE XX.

LABOR.

Eight hours shall constitute a day's labor on all State works.

ARTICLE XXI.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and if same shall be agreed to by a majority of the members of each of the two houses, voting separately, such pro-

posed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and it shall be the duty of the legislature to submit such amendment or amendments to the electors of the State at the next general election, and cause the same to be published without delay for at least six consecutive weeks prior to said election in not less than one newspaper of general circulation published in each county; and if a majority of the electors shall ratify the same, such amendment or amendments shall become part of this constitution.

SEC. 2. If two or more amendments are proposed, they shall be submitted such manner that the electors shall vote for or against each of them separately.

SEC. 3. Whenever a majority of the members elected to each branch of the legislature shall deem it necessary to call a convention to amend or revise this constitution, they shall submit the proposition to the next succeeding legislature, and if a majority elected to each branch of that legislature shall concur therein, they shall recommend to the electors to vote at the next general election for or against a convention, and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members not less than double the number of the most numerous branch of the legislature.

SEC. 4. Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by the people.

ARTICLE XXII.

SCHEDULE.

SECTION 1. That no inconvenience may arise from a change of the Territorial government to a permanent State government, it is declared that all writs, actions, prosecutions, claims, liabilities, and obligations against the Territory of Arizona, of whatever nature, and rights of individuals, and of bodies corporate, shall continue as if no change had taken place in this government.

And all process which may, before the organization of the judicary department under this constitution, be issued under the authority of the Territory of Arizona, shall be as valid as if issued in the name of the State.

SEC. 2. All property, real and personal, and all moneys, credits, claims and choses in action belonging to the Territory of Arizona at the time of the adoption of this constitution shall be vested in and become the property of the State of Arizona.

SEC. 3. All laws now in force in the Territory of Arizona, which are not repugnant to this constitution, shall remain in force until they expire by their own limitation, or shall be altered or repealed by the legislature.

SEC. 4. All fines, penalties, forfeitures, and escheats accruing to the Territory of Arizona, shall accrue to the use of the State.

SEC. 5. All recognizances, bonds, obligations, or other undertakings heretofore taken, or which may be taken before the organization of the judicial department, under this constitution, shall remain valid, and shall pass over to and may be prosuected in the name of the State, and all bonds obligations, or other undertakings executed to this Territory, or by any officer in his official capacity, shall pass over to the proper State authority and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly. All criminal prosecutions and penal actions which have arisen or which may arise before the organization of the judicial department under this constitution, and which shall then be pending, may be prosecuted to judgment and execution in the name of the State.

SEC. 6. All officers, civil and military, holding their offices and appointments in this Territory under the authority of the United States, or under the authority of this Territory, shall continue to hold and exercise their respective offices and appointments until the State government becomes operative under this constitution.

SEC. 7. This constitution shall be submitted for adoption or rejection to a vote of the qualified electors of this Territory, at an election to be held on the first Tuesday in December, A. D. 1891. Said election, as nearly as may be, shall be ordered and conducted in all respects in the same manner as providedby the laws of the Territory, except that persons entitled to vote for or against the adoption of this constitution, shall be as follows, to-wit: All male persons over twenty-one years of age, excluding Indians not taxed, who shall not have been convicted

of any capital or infamous crime, and who shall be citizens of the United States, and who shall have actually resided in the Territory for sixty days, and in the county for ten days next preceding the election. No registration of electors shall be required for the purpose of voting at the election herein provided for. The governor of the Territory shall make proclamation of the time of the submission of this constitution to the electors of the Territory at least thirty (30) days before the time fixed for submission, and he shall cause said proclamation to be published in at least one newspaper published in each county of the Territory. At the said election the ballots shall be in the following form: "For the Constitution, 'Yes,' 'No.'" Any person may have printed or written on his ballot only the words "For the Constitution" or "Against the Constitution," and such ballots shall be counted for or against the constitution accordingly. All votes cast at such election for or against said constitution shall be counted and returned to the Secretary of the Territory in the same manner as votes for delegates to Congress, and he shall canvass and make known the result within forty days after said election, and the governor is required to declare the result of the vote cast and returned, on the adoption or rejection of the constitution, by proclamation, when the same is certified to him by the secretary of the Territory.

SEC. 8. This constitution shall take effect and be in full force immediately upon the admission of the Territory as a State.

SEC. 9. Immediately upon the admission of the Territory as a State, the governor of the Territory, or, in case of his absence or failure to act, the secretary of the Territory, or, in his absence or failure to act, the president of this convention shall issue a proclamation which shall be published and a copy thereof mailed to the chairman of the board of supervisors of each county, calling an election by the people for all State, district, and other officers, created and made elective by this constitution, and fixing a day for such election, which shall not be less than forty days after the date of such proclamation, nor more than ninety days after the admission of the Territory as a State.

SEC. 10. The boards of supervisors of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given in the manner and for the length of time provided by the laws of the Territory in cases of general elections for Delegates to Congress, and county and other officers. Every qualified elector of the Territory who shall have been registered at the date of said election shall be entitled to vote thereat. Said election shall be conducted in all respects in the same manner as provided by the laws of the Territory for general elections, and the returns thereof shall be made to the canvassing board hereinafter provided for.

SEC. 11. The governor, secretary of the Territory, and president of this convention, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for members of Congress, judges of the Supreme Court, all State and district officers and members of the legislature. The said board shall assemble at the seat of government of the Territory on the thirtieth (30) day after the day of such election (or on the following day if such day fall on Sunday) and proceed to canvass the votes for all State and district offices, judges of the supreme court and members of the legislature, in the manner provided by the laws of the Territory for canvassing the vote for Delegate to Congress, and they shall issue certificates of election to the persons found to be elected to said offices, severally, and shall make and file with the secretary of the Territory an abstract certificate by them, of the number of votes cast for each person for each of said offices and of the total number of votes cast in each county.

SEC. 12. All officers elected at such election, except members of the legislature, shall, within thirty days after they have been declared elected, take the oath required by law, and give the same bond required by the law of the Territory to be given in case of like officers of the Territory or district, and shall thereupon enter upon the duties of their respective offices, except as otherwise provided in this constitution, but the legislature may require by law all such officers to give other or further bonds as a condition of their continuance in office.

SEC. 13. The governor-elect of the State immediately upon his qualifying and entering upon the duties of his office, shall issue his proclamation convening the legislature of the State at the seat of government, on a day to be named in said proclamation, and which shall not be less than thirty nor more than sixty days after the date of said proclamation. Within ten days after the organization of the legislature, both houses of the legislature shall then and there proceed to elect, as provided by law, two Senators of the United States for the State of Arizona. At said election the two persons who shall receive the majority of

all votes cast by said senators and representatives shall be elected as such United States Senators, and shall be so declared by the presiding officers of both houses.

The presiding officers of the senate and house shall issue a certificate to each of said Senators certifying his election, which certificates shall also be signed by the governor and attested by the secretary of state.

SEC. 14. The legislature shall pass all necessary laws to carry into effect the provisions of this constitution.

SEC. 15. Whenever any two of the judges of the supreme court of the State, elected under the provisions of this constitution, shall have qualified in their offices, the causes then pending in the supreme court of the Territory on appeal or writ of error from the district court of any county or subdivision within the limits of this State, and the papers, records, and proceedings of said court, shall pass into the jurisdiction and possession of the supreme court of the State, except as otherwise provided in the enabling act of Congress, and until so suspended, the supreme court of the Territory, and the judges thereof, shall continue with like power and jurisdiction, as if this constitution had not been adopted.

Whenever the judge of the district court of any district, elected under the provisions of this constitution, shall have qualified in his office, the several causes then pending in the district court of the Territory within any county in such district, and the records, papers, and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the State for such county, except as provided in the enabling act of Congress; until so suspended the district court and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the Territory.

SEC. 16. The first regular election that would otherwise occur following the first session of the first legislature, shall be omitted, and all county and precinct officers elected at the first election held under this constitution, shall hold their offices for the full term thereof, commencing at the expiration of the term of the county and precinct officers then in office, or the date of their qualification.

SEC. 17. If the first session of the legislature under this constitution shall be concluded within twelve months of the time designated for a regular session thereof, then the next regular session following said special session shall be omitted.

SEC. 18. Members of the legislature and all State officers, district and supreme judges elected at the first election held under this constitution, shall hold their respective offices for the full term next ensuing such election in addition to the period intervening between the date of their qualifications and the commencement of said full term.

SEC. 19. All county and precinct officers who may be in office at the adoption of this constitution shall hold their respective offices for the full term for which they may have been elected and until such time as their successors may be elected and qualified as may be provided by law, and the official bonds of all such officers shall continue in full force and effect as though the constitution had not been adopted.

SEC. 20. In behalf of the people of Arizona, we, in convention assembled, have framed this constitution, and hereby submit the same to the qualified electors of the Territory.

Done in open convention, at the city of Phœnix, in the Territory of Arizona, this 2d day October, A. D. 1891.

W. A. ROWE, *President*,
H. N. ALEXANDER,
J. W. ANDERSON,
ALONZO BAILEY,
WILLIAM HENRY BARNES,
BEN M. CRAWFORD.
GEORGE W. CHEYNEY,
THOMAS DAVIS,
FOSTER S. DENNIS,
THOMAS GATES,
W. A. HARTT,
JOHN HUNT,
WILLIAM HERRING,
FRANK H. HEREFORD,
T. C. JORDAN,
ART MCDONALD,
THOMAS G. NORRIS,
A. M. PATTERSON,
MARCUS A. SMITH,
MARSHALL H. WILLIAMS,
J. F. WILSON,

Attest: ALLEN C. BERNARD, *Secretary*.

O

CASH ENTRIES OF OFFERED LANDS.

NOVEMBER 3, 1893.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SOMERS, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 4244.]

The Committee on the Public Lands, to whom the bill (H. R. 4244) to confirm cash entries of offered lands was recommitted on the 26th of October last, with instructions to ascertain the amount of land covered by the bill, and the purchasers, and the amount purchased by each person, respectfully report the same back to the House, with the following letter from the honorable Commissioner of the General Land Office, which contains all the information obtainable by the committee:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 31, 1893.

SIR: In reply to your verbal request for a report supplemental to that rendered by this office October 9, 1893, on H. R. bill No. 1829, "For the relief of Charles A. Hall," which shall show the amount of land covered by the bill, the names of purchasers, and the amount purchased by each person, I have the honor to submit the following statement, showing the dates, names, area, and amounts paid by the purchasers on private cash entries made in the States of Mississippi, Arkansas, and Alabama, between May 14 and 29, 1888, as well as the disposition thereof:

MISSISSIPPI.

Date.	Names.	Acres purchased.	Amount paid.	Disposition.
	Jackson land office.			
1888.				
May 14	Helen S. J. Harris	40.15	$50.19	Patented.
14	Samuel H. Dicken	40.24	50.30	Do.
14	Solomon E. Perkins	38.69	48.35	Do.
14	Perry K. Freeman	80.07	100.09	Do.
14	Buford A. Summer	80.34	100.44	Do.
14	Mary E. Clark	320.75	400.94	Do.
14	do	639.50	799.38	Do.
14	Joseph B. Moore	208.33	260.41	Do.
14	do	120.27	150.34	Do.
14	do	159.75	199.69	Do.
14	do	160.20	200.25	Do.
14	do	160.11	200.14	Do.
14	do	240.07	300.09	Do.
14	Louis Werner	238.64	298.30	Do.
14	do	79.63	99.54	Do.
14	do	120.00	150.00	Do.
14	do	79.55	99.44	Do.
14	George H. Rankin	40.00	50.00	Do.
14	Mary A. Ulmer	49.05	61.31	Do.
28	Luke S. Montague	79.94	99.93	Do.
28	do	78.55	98.19	Do.
	Total	3,053.83	3,817.32	

ARKANSAS.

Date.		Names.	Acres purchased.	Amount paid.	Disposition.
		Camden land office.			
1888.					
May	14	Lawson H. Lee and James H. Tuttle	80.00	$100.00	Canceled.
	18	Jared C. Martin	280.00	350.00	Do.
	18	.....do	40.00	50.00	Do.
	18	.....do	120.00	150.00	Do.
	18	.....do	240.00	300.00	Do.
	18	.....do	160.00	200.00	Do.
	18	.....do	200.00	250.00	Do.
	18	.....do	238.03	297.54	Do.
	18	.....do	239.62	299.53	Do.
	18	.....do	239.74	299.68	Do.
	18	.....do	120.00	150.00	Do.
	18	.....do	160.00	200.00	Do.
	23	Joseph M. Bell	40.00	50.00	Canceled; purchase money refunded.
	24	William B. Brooks	67.87	84.84	Do.
	28	William Eyke	160.37	200.46	Canceled.
	28	.....do	120.00	150.00	Do.
	28	.....do	80.00	100.00	Do.
		Little Rock office.			
May	16	William N. Slack	164.74	205.93	Canceled; purchase money refunded.
	17	George W. Page	40.00	50.00	Canceled; repayment applied for.
	21	William N. Slack	80.00	100.00	Canceled.
	22	Charles H. Taylor	40.00	50.00	Canceled; purchase money refunded.
	23	Lorain Sain	120.00	150.00	Do.
	29	J. R. B. Moore	80.00	100.00	Canceled; repayment applied for.
	29	Patrick L. Cotton	40.00	50.00	Canceled.
	29	Leven D. Cash	38.38	48.18	Canceled; purchase money refunded.
	29	Gustavus D. Ward	80.00	100.00	Do.
		Dardanelle land office.			
May	14	James T. Lockhart	45.16	56.45	Patented.
		Harrison land office.			
May	15	Jerry T. Powell	40.00	50.00	Canceled; purchase money refunded.
	19	David H. N. Dodd	120.00	150.00	Canceled.
	23	George W. Pilgrim	40.00	50.00	Do.
	23	William A. Pitman	74.70	93.37	Do.
	23	Charles S. Beck	159.30	199.13	Patented.
	26	William W. Burlison	39.75	49.69	Canceled.
	28	Samuel F. Kielms	40.54	50.68	Canceled; purchase money refunded.
	28	Garrett Williams	80.00	100.00	Patented.
		Total	3,908.20	4,885.48	

ALABAMA.

Date.		Names.	Acres purchased.	Amount paid.	Disposition.
		Montgomery land office.			
May	16	James R. Coleman	40.00	$50.00	Suspended.
	16	George W. Faulk	40.05	50.05	Do.
	17	Napoleon B. Dixon	78.44	98.05	Do.
	17	Amos Chapman	40.17	50.20	Do.
	22	Charles J. Leonard	80.14	100.20	On appeal before Secretary of the Interior.
	22	.....do	280.00	350.00	Do.
	22	.....do	119.88	149.85	Do.
	22	.....do	199.95	$249.95	Do.
	25	Amos Chapman	79.95	99.95	Suspended.
	28	La Fayette Hammons	40.01	50.00	Do.
	29	Josiah S. Spikes	40.00	50.00	Do.
		Huntsville Land office.			
May	18	Charles A. Hall	236.28	295.35	Suspended.
	18	.....do	159.74	199.68	Do.
	18	.....do	40.04	50.05	Do.
	18	.....do	119.20	149.00	Do.
	18	.....do	241.48	301.85	Do.
	18	.....do	360.40	450.50	Do.
	18	.....do	80.24	100.30	Do.
	18	.....do	160.80	201.00	Do.
	18	.....do	521.69	652.12	Do.
	18	.....do	644.04	805.05	Do.
		Total	3,602.50	4,503.15	

In Mississippi there were 21 cash entries made, aggregating 3053.83 acres, for which $3,817.32 were paid. All of these entries have been patented.

In Arkansas there were 35 cash entries made, aggregating 3908.20 acres, for which $4,885.48 were paid. Of this number 32 have been canceled, because they were made without authority of law, these canceled entries aggregating 3623.74 acres, and three were patented, aggregating 284.46 acres. The purchase money on nine of these canceled entries has been refunded, amounting to $789.63. Applications have been made for the repayment of the purchase money paid on two of said entries, amounting to $150. Granting that these two applications will be allowed it is seen that the sum of $3,945.85 is covered into the Treasury, while the entries for which said sum was paid have been canceled, and the purchasers have received no benefit therefrom.

In Alabama there were 21 cash entries made, aggregating 3,602.50 acres, for which $4,503.15 were paid. All of these entries are suspended, four of them being before the Secretary of the Interior on appeal from the decision of this office holding them for cancellation because they were made in violation of law.

Thus in the three States of Mississippi, Arkansas, and Alabama offered Government lands were purchased at private sale, between the dates named, to the amount of 10,564.53 acres, for which there was paid the sum of $13,205.95.

Of this total area, entries covering 3,602.50 acres are suspended in this Department; patents have been issued for 3,338.29 acres; entries covering 3,623.74 acres have been canceled, of which amount 701.33 acres have been absolutely returned to the public domain, since after the cancellation of the entries the purchase money was refunded to the purchasers, leaving 2,922.41 acres, the entries for which might be reinstated, if no adverse claims have attached, should Congress pass the necessary legislation therefor, or the purchase money for which might be refunded upon the proper application of the purchasers.

Should the bill under consideration become a law in its present form, the suspended entries, representing 3,602.50 acres, would be passed to patent, and the patents already issued would be confirmed should their legality be ever questioned.

Should a clause be inserted in the bill allowing the reinstatement of the canceled entries, upon application therefor, and where no adverse claims have attached, entries to the amount of 2,922.41 acres might thus be reinstated.

These lands were purchased under the provisions of the act of June 22, 1876 (19 Stats., 73), no acts of settlement, cultivation, and improvements being required of the purchasers.

The operations of said act were suspended by the joint resolution of May 14, 1888 (25 Stats., 622), as amended by the joint resolution of July 16, 1888 (*ibid.*, 626), and the private sale of lands in the United States, except the State of Missouri, was prohibited by the act of March 2, 1889 (25 Stats., 854).

Very respectfully,

S. W. LAMOREUX,
Commissioner.

Hon. THOMAS C. MCRAE,
House of Representatives, Washington, D. C.

53D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 170.

EASTERN JUDICIAL DISTRICT OF FLORIDA.

NOVEMBER 3, 1893.—Ordered to be printed.

Mr. BOATNER, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany H. R. 51.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 51) to create the eastern judicial district of Florida, submit the following report:

Your committee reports this bill favorably, and recommends its passage with the following amendments:

Strike out in lines 3 and 4 of section 1 the words "a judicial district called the eastern district of Florida is hereby created, composed of," and insert at the end of section 1 the following: "Be, and the same are hereby, detached from the northern judicial district of said State and attached to the southern judicial district thereof."

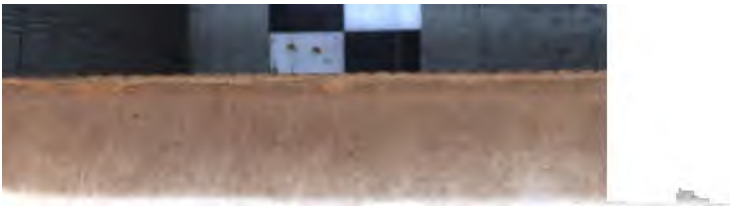
In line 2 of section 2, after the word "said," insert "southern," and add to said section the following: "In addition to the terms at Key West and Tampa, as now provided by law."

Strike out sections 3 and 4 and add the following as section 3:

SEC. 3. *And be it further enacted*, That all cases or proceedings pending in the circuit court for the northern district of Florida at Jacksonville, Florida, or filed in the office of the clerk of said circuit court at Jacksonville aforesaid, and all records of said court at Jacksonville aforesaid, are hereby transferred to said circuit court for the southern district of Florida, to be proceeded with therein as if originally instituted in said court. And all cases or proceedings pending in the district court for the northern district of Florida at Jacksonville, Florida, or filed in the office of the clerk of said district court at Jacksonville aforesaid, and all records of said court at Jacksonville aforesaid, are hereby transferred to said district court for the southern district of Florida, to be proceeded with therein as if originally instituted in said court.

Amend the title so as to read "A bill to change the boundaries of the judicial districts of the State of Florida."

Your committee found, on examination of the facts, that the northern district of Florida, as at present constituted, is about 800 miles long, that there is very little connection in business, transportation, or intercourse between the western and southern and eastern portions thereof, and that the convenience and wants of the counties detached from the northern and attached to the southern district will be greatly subserved thereby. Ample territory is left in the northern district, and no additional expense will be made by the change.

The passage of the bill, amended as above suggested, is therefore recommended.

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